

§ 46.76

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

[Example using 2000-2001 Rates]

Quantity	Article	Rate of tax	Amount
300 lbs	Roll-your-own tobacco	\$0.9567 per pound	287.01
Total claimed			964.20

[Example using rates for 2002 and After]

Quantity	Article	Rate of tax	Amount
20,000	Small cigars	\$1.828 per thousand	36.56
1,000	Large cigars—sale price \$100/thousand.	20.719% of sale price	20.72
500	Large cigars—sale price \$236/thousand.	\$48.75 per thousand	24.38
10,000	Small cigarettes	\$19.50 per thousand	195.00
5,000	Large cigarettes	\$40.95 per thousand	204.75
199,975	Cigarette papers	\$0.0122 per 50 papers	48.80
1,000	Cigarette tubes	\$0.0244 per 50 tubes	0.49
100 lbs	Chewing tobacco	\$0.195 per pound	19.50
200 lbs	Snuff	\$0.585 per pound	117.00
100 lbs	Pipe tobacco	\$1.0969 per pound	109.69
300 lbs	Roll-your-own tobacco	\$1.0969 per pound	329.07
Total claimed			1,105.96

[T.D. ATF-420, 64 FR 71945, Dec. 22, 1999]

§ 46.76 Supporting evidence.

The claimant must support the claim with any available evidence (such as inventories, statements, invoices, bills, records, stamps, and labels), relating to the tobacco products or cigarette papers or tubes on hand at the time of the disaster and claimed to have been lost, rendered unmarketable, or condemned as a result thereof. If the claim is for refund of duty, the claimant must furnish, if practicable, the customs entry number, date of entry, and the name of the port of entry.

[T.D. ATF-420, 64 FR 71946, Dec. 22, 1999]

46.77 Time and place of filing.

Disaster loss claims must be filed within 6 months after the date on which the President makes the determination that the disaster has occurred. All forms, including claims for duty on imported products, must be filed with the appropriate ATF officer.

[T.D. ATF-420, 64 FR 71946, Dec. 22, 1999]

§ 46.78 Action by appropriate ATF officer.

The appropriate ATF officer must act upon each claim for payment (without interest) of an amount equal to the tax paid or determined filed under this subpart and must notify the claimant. Claims and supporting data involving

customs duties will be forwarded to the Commissioner of Customs with a summary statement of such officer's findings.

[T.D. ATF-472, 67 FR 8881, Feb. 27, 2002]

DESTRUCTION OF TOBACCO PRODUCTS, AND CIGARETTE PAPERS AND TUBES

§ 46.79 Supervision.

Before payment is made under this subpart in respect of the tax, or tax and duty, on tobacco products, or cigarette papers or tubes rendered unmarketable or condemned by a duly authorized official, such tobacco products, or cigarette papers or tubes must be destroyed by suitable means under the supervision of an appropriate ATF officer who will be assigned for that purpose by another appropriate ATF officer. However, if the destruction of such tobacco products, or cigarette papers or tubes has already occurred, and if the appropriate ATF officer who acts on the claim is satisfied with the supervision of such destruction, ATF supervision will not be required.

[T.D. ATF-472, 67 FR 8881, Feb. 27, 2002]

PENALTIES

§ 46.80 Penalties.

Penalties are provided in 26 U.S.C. 7206 and 7207 for the execution under

the penalties of perjury of any false or fraudulent statement in support of any claim and for the filing of any false or fraudulent document under this subpart. All provisions of law, including penalties, applicable in respect of internal revenue taxes on tobacco products, and cigarette papers and tubes shall, insofar as applicable and not inconsistent with this subpart, be applied in respect of the payments provided for in this subpart to the same extent as if such payments constituted refunds of such taxes.

[T.D. 6871, 31 FR 60, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55857, Sept. 28, 1979; T.D. ATF-232, 51 FR 28092, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]

ADMINISTRATIVE PROVISIONS

§ 46.81 [Reserved]

Subparts D–F [Reserved]

Subpart G—Dealers in Tobacco Products

SOURCE: T.D. 6573, 26 FR 8202, Aug. 31, 1961, unless otherwise noted. Redesignated at 40 FR 16835, Apr. 15, 1975.

§ 46.161 Scope of subpart.

The regulations in this subpart relate to the purchase, receipt, possession, offering for sale, or sale or other disposition of tobacco products by dealers in such products.

[T.D. 6871, 81 FR 60, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975 and amended by T.D. ATF-232, 51 FR 28092, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]

§ 46.162 Territorial extent.

The provisions of the regulations in this subpart shall apply in the several States of the United States and the District of Columbia.

§ 46.163 Meaning of terms.

When used in this subpart, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, each of the following terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, words in the singular form shall include the plural, and

words importing the masculine gender shall include the feminine. The terms “includes” and “including” do not exclude things not enumerated which are in the same general class.

Appropriate ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any functions relating to the administration or enforcement of this part by ATF Order 1130.28, Delegation of the Director’s Authorities in 27 CFR Parts 45 and 46.

Dealer. Any person who sells, or offers for sale, at wholesale or retail levels, any cigars or cigarettes after removal.

Manufacturer of tobacco products. Any person who manufactures cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco but does not include:

(1) A person who produces tobacco products solely for that person’s own consumption or use; or

(2) A proprietor of a Customs bonded manufacturing warehouse with respect to the operation of such warehouse.

Package. The container in which tobacco products are put up by the manufacturer or the importer and offered for delivery to the consumer.

Person. An individual, partnership, association, company, corporation, estate, or trust.

Removal or remove. The removal of tobacco products from the factory or release from Customs custody, including the smuggling or other unlawful importation of such articles into the United States.

Tobacco Products. Cigars, cigarettes, smokeless tobacco, pipe tobacco, and roll-your-own tobacco.

U.S.C. The United States Code.

[T.D. 6573, 26 FR 8202, Aug. 31, 1961, as amended by T.D. 6871, 31 FR 60, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 46.163, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 46.164 Authority of ATF officers to enter premises.

Any appropriate ATF officer may enter in the daytime any premises where tobacco products are kept or