

Alcohol and Tobacco Tax and Trade Bureau, Treasury

§ 45.41

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

cent or more, in which case it shall be increased to one cent.

[T.D. ATF-232, 51 FR 28090, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986, as amended by T.D. ATF-251, 52 FR 19341, May 22, 1987; T.D. ATF-472, 67 FR 8880, Feb. 27, 2002]

§ 45.37 Assessment.

Whenever any person required by law to pay tax on tobacco products, and cigarette papers and 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 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]

Subpart E—Packaging Requirements

§ 45.41 Packages.

All tobacco products, and cigarette papers and tubes shall, before removal under this part, be put up by the manufacturer in packages which shall be of such construction as will securely contain the articles therein and maintain the mark, notice, and label thereon, as required by this subpart. No package of tobacco products, or cigarette papers or tubes shall have contained therein, attached thereto, or stamped, marked, written, or printed thereon (a) any certificate, coupon, or other device purporting to be or to represent a ticket, chance, share, or an interest in, or dependent on, the event of a lottery, or