

## Alcohol and Tobacco Tax and Trade Bureau, Treasury

## § 53.3

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SOURCE: T.D. ATF-308, 56 FR 303, Jan. 3, 1991, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 53 appear by T.D. ATF-447, 66 FR 19088, Apr. 13, 2001.

### Subpart A—Introduction

#### § 53.1 Introduction.

The regulations in this part (part 53, subchapter C, chapter I, title 27, Code of Federal Regulations) are designated “Manufacturers Excise Taxes—Firearms and Ammunition.” The regulations relate to the tax on the sale of firearms and ammunition imposed by section 4181 of the Internal Revenue Code of 1986, and to certain related administrative provisions of chapter 32, subchapter F, of the Code. Chapter 32, subchapter D of the Code imposes taxes on the sale or use by the manufacturer, producer, or importer of certain recreational equipment specified in that chapter. References in the regulations

in this part to the “Internal Revenue Code” or the “Code” are references to the Internal Revenue Code of 1986 (United States Code of 1986), as amended, unless otherwise indicated. References to a section or other provision of law are references to a section or other provision of the Internal Revenue Code of 1986, as amended, unless otherwise indicated.

#### § 53.2 Attachment of tax.

(a) For purposes of this part, the manufacturers excise tax generally attaches when the title to the article sold passes from the manufacturer to a purchaser.

(b) When title passes is dependent upon the intention of the parties as gathered from the contract of sale and the attendant circumstances. In the absence of expressed intention, the legal rules of presumption followed in the jurisdiction where the sale is made govern in determining when title passes.

(c) In the case of a sale on credit, the tax attaches whether or not the purchase price is actually collected.

(d) Where a consignor (such as a manufacturer) consigns articles to a consignee (such as a dealer), retaining ownership in them until they are disposed of by the consignee, title does not pass, and the tax does not attach until sale by the consignee. Where the relationship between a manufacturer and a dealer is that of principal and agent, title does not pass, and the tax does not attach, until sale by the dealer.

(e) In the case of a lease, an installment sale, a conditional sale, or a chattel mortgage arrangement or similar arrangement creating a security interest, a proportionate part of the tax attaches to each payment. See section 4217 and §§ 53.103 and 53.104 for a limitation on the amount of tax payable on lease payments.

(f) In the case of use by the manufacturer, the tax attaches at the time the use begins.

#### § 53.3 Exemption certificates.

Several sections of the regulations in this part, relating to sales exempt from manufacturers excise tax, require the manufacturer to obtain an exemption

certificate from the purchaser to substantiate the exempt character of the sale. Any form of exemption certificate will be acceptable if it includes all the information required to be contained in such a certificate by the pertinent sections of the regulations in this part. These certificates are available as preprinted documents which may be ordered from the Bureau's Distribution Center (see § 53.21 for the address of the Distribution Center). The preprinted certificates may be reproduced as needed.

[T.D. ATF-380, 61 FR 37005, July 16, 1996]

### Subpart B—Definitions

#### § 53.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms “includes” and “including” do not exclude other things not enumerated which are in the same general class or are otherwise within the scope thereof.

*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 1130.18, Delegation Order—Delegation of the Director's Authorities in 27 CFR part 53—Manufacturers Excise Taxes—Firearms and Ammunition.

*Calendar quarter.* A period of 3 calendar months ending on March 31, June 30, September 30, or December 31.

*Calendar year.* The period which begins January 1 and ends on the following December 31.

*Chapter 32.* For purposes of this part chapter 32 means section 4181, chapter 32, of the Internal Revenue Code of 1986, as amended.

*Code.* Internal Revenue Code of 1986, as amended.

*Director.* The Director, Bureau of Alcohol, Tobacco and Firearms, the De-

partment of the Treasury, Washington, DC 20226.

*Electronic fund transfer (EFT).* Any transfer of funds effected by a taxpayer's financial institution, either directly or through a correspondent banking relationship, via the Federal Reserve Communications System (FRCS) or Fedwire to the Treasury Account at the Federal Reserve Bank.

*Exportation.* The severance of an article from the mass of things belonging within the United States with the intention of uniting it with the mass of things belonging within some foreign country or within a possession of the United States.

*Exporter.* The person named as shipper or consignor in the export bill of lading.

*Financial institution.* A bank or other financial institution, whether or not a member of the Federal Reserve System, which has access to the Federal Reserve Communications Systems (FRCS) or Fedwire. The “FRCS” or “Fedwire” is a communications network that allows Federal Reserve System member financial institutions to effect a transfer of funds for their customers (or other financial institutions) to the Treasury Account at the Federal Reserve Bank.

*Firearms.* Any portable weapons, such as rifles, carbines, machine guns, shotguns, or fowling pieces, from which a shot, bullet, or other projectile may be discharged by an explosive.

*Importer.* Any person who brings a taxable article into the United States from a source outside the United States, or who withdraws such an article from a customs bonded warehouse for sale or use in the United States. If the nominal importer of a taxable article is not its beneficial owner (for example, the nominal importer is a customs broker engaged by the beneficial owner), the beneficial owner is the “importer” of the article for purposes of chapter 32 of the Code and is liable for tax on his sale or use of the article in the United States. See section 4219 of the Code and 27 CFR 53.121 for the circumstances under which sales by persons other than the manufacturer or importer are subject to the manufacturers excise tax.