

§ 40.213 Tobacco products labeled for export.

Tobacco products labeled for export are ineligible for removal from the factory and distribution into the domestic U.S. market. Such products may only be sold, transferred or delivered onto the domestic U.S. market by a manufacturer of tobacco products after repackaging of the product. For the purposes of this section, “repackaging” shall mean the removal of the tobacco product from its original package bearing the export marks and placement of the product in a new package. The new packages, marks and notices must conform to the requirements of this subpart.

[T.D. ATF-421, 64 FR 71924, Dec. 22, 1999]

§ 40.214 Notice for cigars.

Before removal subject to tax, every package of cigars shall have adequately imprinted on it, or on a label securely affixed to it—

(a) The designation “cigars”;

(b) The quantity of cigars contained in the package; and

(c) For small cigars, the classification of the product for tax purposes (i.e., either “small” or “little”).

(Sec. 202, Pub. L. 85-859, 72 Stat. 1422 (26 U.S.C. 5723))

[T.D. ATF-80, 46 FR 18310, Mar. 24, 1981]

§ 40.215 Notice for cigarettes.

Every package of cigarettes shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, the designation “cigarettes”, the quantity of such product contained therein, and the classification for tax purposes, i.e., for small cigarettes, either “small” or “Class A”, and for large cigarettes, either “large” or “Class B”.

(72 Stat. 1422; 26 U.S.C. 5723)

§ 40.216 Notice for smokeless tobacco.

(a) *Product designation.* Every package of chewing tobacco or snuff shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, the designation “chewing tobacco” or “snuff.” As an alternative, packages of chewing tobacco may be designated “Tax Class

C”, and packages of snuff may be designated “Tax Class M”.

(b) *Product weight.* Every package of chewing tobacco or snuff shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, a clear statement of the actual pounds and ounces of the product contained therein. As an alternative, the shipping cases containing packages of chewing tobacco or snuff may, before removal, have adequately imprinted thereon, or on a label securely affixed thereto, a clear statement, in pounds and ounces, of the total weight of the product, the tax class of the product, and the total number of the packages of product contained therein.

(Approved by the Office of Management and Budget under control number 1512-0502)

(Sec. 202, Pub. L. 85-859, 72 Stat. 1422 (26 U.S.C. 5723))

[T.D. ATF-243, 51 FR 43194, Dec. 1, 1986, as amended by T.D. ATF-446, 66 FR 16602, Mar. 27, 2001]

§ 40.216a Notice for pipe tobacco.

(a) *Product designation.* Every package of pipe tobacco shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, the designation “pipe tobacco.” As an alternative, packages of pipe tobacco may be designated “Tax Class L.”

(b) *Product weight.* Every package of pipe tobacco shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, a clear statement of the actual pounds and ounces of the product contained therein.

[T.D. ATF-289, 54 FR 48840, Nov. 27, 1989. Re-designated at T.D. ATF-424, 64 FR 71931, Dec. 22, 1999]

§ 40.216b Notice for roll-your-own tobacco.

(a) *Product designation.* Before removal subject to tax, roll-your-own tobacco must have adequately imprinted on, or on a label securely affixed to, the package, the designation “roll-your-own tobacco” or “cigarette tobacco” or “Tax Class J.”

(b) *Product weight.* Before removal subject to tax, roll-your-own tobacco

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must have a clear statement of the actual weight in pounds and ounces of the product in the package. This statement must be adequately imprinted on, or on a label securely affixed to, the package.

(Approved by the Office of Management and Budget under control number 1512-0502)

[T.D. ATF-429, 65 FR 57547, Sept. 25, 2000]

§ 40.216c Package use-up rule.

(a) A manufacturer must have used such packaging for roll-your-own tobacco before January 1, 2000.

(b) A manufacturer of roll-your-own tobacco may continue to place roll-your-own tobacco in packages that do not meet the marking requirements of §§ 40.212 and 40.216b(b) until April 1, 2000.

(c) A manufacturer of roll-your-tobacco may continue to place roll-your-tobacco in packages that do not meet the requirements of § 40.216b(a) until October 1, 2000.

[T.D. ATF-427, 65 FR 40051, June 29, 2000]

§ 40.217 Repackaging.

Where a manufacturer of tobacco products desires to repackage, outside the factory, tobacco products on which the tax has been determined or which were removed for a tax-exempt purpose or transferred in bond to an export warehouse, or to repackage tax determined tobacco products in the factory, he shall make application for authorization to do so, in duplicate, to the appropriate TTB officer. The application shall set forth the location and the number of packages, a description of the contents, the tax status of the tobacco products the reason for wanting to repackage the products (e.g., packages soiled, damaged, or otherwise in a condition making the product unsalable), and a description of the package to be used for repackaging. The packages to be used must comply with the package, mark, and notice provisions of this chapter applicable to the tobacco products being repackaged. The operations authorized under this section are limited solely to repackaging for good cause by a manufacturer, pursuant to an approved application, of the specified tobacco products in the described packages, and do not

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include any manufacturing processes. If the appropriate TTB officer approves the application, he may assign an appropriate TTB officer to supervise the repackaging or he may authorize the manufacturer to repackage the products without supervision by so stating on a copy of the application returned to the manufacturer. Where the manufacturer is authorized to repackage he shall record the date of repackaging on the approved application and retain it as part of his records.

(72 Stat. 1422; 26 U.S.C. 5723)

[T.D. 6871, 31 FR 36, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28082, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]

EXEMPTION FROM TAXES ON TOBACCO PRODUCTS

§ 40.231 Consumption by employees.

A manufacturer of tobacco products may gratuitously furnish tobacco products, without determination and payment of tax, for personal consumption by employees in the factory in such quantities as desired. Each employee may also be gratuitously furnished by the manufacturer, for off-factory personal consumption, not more than 5 large cigars or cigarettes, 20 small cigars or cigarettes, or one retail package of chewing tobacco, snuff, pipe tobacco or roll-your-own tobacco, or a proportionate quantity of each, without determination and payment of tax, on each day the employee is at work. For the purposes of this section, the term "employee" shall mean those persons whose duties require their presence in the factory of whose duties relate to the manufacture, distribution, or sale of tobacco products and who receive compensation from the manufacturer, or a parent, subsidiary, or auxiliary company or corporation of the manufacturer. Such product furnished for off-factory consumption shall be furnished to the employee within the factory and taken from the factory by the employee on the day for which furnished. Employees shall not sell, offer