

## §41.173

taxpayer shall group the articles according to the rates of tax applicable to the articles, and shall prepare a schedule of the articles, on Form 5200.7, in triplicate. All copies of the schedule shall be forwarded to the appropriate TTB officer.

(b) *Large cigars.* Refund or credit of tax on large cigars withdrawn from the market is limited to the lowest tax applicable to that brand and size of cigar during the required record retention period (see §41.22) except where the importer establishes that a greater amount was actually paid. For each claim involving large cigars withdrawn from the market, the importer must include a certification on either TTB Form 5200.7 or TTB Form 2635 (5620.8) to read as follows:

The amounts claimed relating to large cigars are based on the lowest sale price applicable to the cigars during the required record retention period, except where specific documentation is submitted with the claim to establish that any greater amount of tax claimed was actually paid.

(See 26 U.S.C. 5705)

[T.D. ATF-80, 46 FR 18311, Mar. 24, 1981, and amended by T.D. ATF-232, 51 FR 28087, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-251, 52 FR 19341, May 22, 1987; T.D. ATF-307, 55 FR 52745, Dec. 21, 1990; T.D. ATF-424, 64 FR 71933, Dec. 22, 1999; T.D. ATF-420, 64 FR 71944, Dec. 22, 1999. Redesignated and amended by T.D. TTB-16, 69 FR 52424, 52425, Aug. 26, 2004]

### §41.173 Return to nontaxpaid status, action by appropriate TTB officer.

Upon receipt of a schedule of tobacco products and cigarette papers and tubes which have been imported or brought into the United States and which are withdrawn from the market by a taxpayer who desires to return such articles to a nontaxpaid status, the appropriate TTB officer may verify the schedule and supervise disposition of the articles (and destruction of the stamps, if any) or the appropriate TTB officer may authorize the receiving manufacturer to verify the schedule and disposition of the articles (and destruction of the stamps, if any) covered therein, without supervision, by so stating on the original and one copy of the schedule returned to the manufacturer. Where the receipt in a

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factory of tobacco products and cigarette papers and tubes has been verified, such articles shall be treated by the receiving manufacturer as nontaxpaid and shall be covered by the manufacturer's bond.

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

[T.D. 6871, 31 FR 47, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28087, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986. Redesignated and amended by T.D. TTB-16, 69 FR 52424, 52425, Aug. 26, 2004]

### §41.174 Disposition of tobacco products and cigarette papers and tubes, and schedule.

When the appropriate TTB officer is assigned to verify the schedule and supervise destruction or other disposition of tobacco products and cigarette papers and tubes which have been imported or brought into the United States, such officer shall, upon completion of his assignment, execute a certificate on all copies of the schedule to show the disposition and the date of disposition of such articles. The appropriate TTB officer shall return the original and one copy of the certified schedule to the taxpayer. When a taxpayer destroys such articles (and stamps, if any) or reduces tobacco products to materials, or a receiving manufacturer verifies the schedule and disposition of such articles (and stamps, if any), he shall execute a certificate on the original and the copy of the schedule returned to him, to show the disposition and the date of disposition of the articles. The taxpayer shall attach the original of the certified schedule to his claim for refund.

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

[T.D. 6871, 31 FR 47, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28087, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986. Redesignated and amended by T.D. TTB-16, 69 FR 52424, 52425, Aug. 26, 2004]

## Subpart J—Records and Reports

SOURCE: T.D. ATF-40, 42 FR 5007, Jan. 26, 1977, unless otherwise noted.