

§41.71

fund transfer (EFT) of such taxes during the succeeding calendar year. Payment of such taxes by cash, check, or money order is not authorized for an importer who is required, by this section, to make remittances by EFT. For purposes of this section, the dollar amount of tax liability is defined as the gross tax liability on all taxable withdrawals and importations (including similar products brought into the United States from Puerto Rico or the Virgin Islands) during the calendar year, without regard to any drawbacks, credits, or refunds, for all premises from which such activities are conducted by the taxpayer.

(b) For the purposes of this section, a taxpayer includes a controlled group of corporations, as defined in 26 U.S.C. 1563, and implementing regulations in 26 CFR 1.1563-1 through 1.1563-4, except that the words “at least 80 percent” shall be replaced by the words “more than 50 percent” in each place it appears in subsection (a) of 26 U.S.C. 1563, as well as in the implementing regulations. Also, the rules for a “controlled group of corporations” apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50% control over a group consisting of corporations and one, or more, partnerships and/or sole proprietorships, all of the members of the controlled group are one taxpayer for the purpose of determining who is required to make remittances by EFT.

(c) For the purposes of this section, (1) electronic fund transfer or EFT means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer of magnetic tape, so as to order, instruct, or authorize a financial institution to either debit or credit an account, in accordance with procedures established by the U.S. Customs Service, and (2) electronic fund transfer or EFT does not have the meaning defined in §41.11 for use elsewhere in this part.

(d) An importer who is required by this section to make remittances by EFT, shall make the EFT remittance

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in accordance with the requirements of the U.S. Customs Service.

(Act of August 16, 1954, 68A Stat. 775, as amended (26 U.S.C. 6302); Sec. 202, Pub. L. 85-859, 72 Stat. 1417, as amended (26 U.S.C. 5703))

[T.D. ATF-245, 52 FR 534, Jan. 7, 1987, as amended by T.D. ATF-384, 61 FR 54095, Oct. 17, 1996. Redesignated and amended by T.D. TTB-16, 69 FR 52424, 52425, Aug. 26, 2004]

Subpart E—Packages

§41.71 Package.

All tobacco products, cigarette papers and tubes, except as provided in §41.75, shall, before removal subject to internal revenue tax, be put up in packages which shall be of such construction as will securely contain the articles therein and maintain the notice thereon as required by this subpart. No package of tobacco products or cigarette papers or tubes shall have contained in, attached to, 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, (b) any indecent or immoral picture, print, or representation, or (c) any statement or indication that United States tax has been paid.

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

[T.D. 6871, 31 FR 41, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28084, 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]

§41.72 Notice for smokeless tobacco.

(a) *Product designation.* Every package of chewing tobacco or snuff shall, before removal subject to internal revenue 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 internal revenue

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]

§41.72a Notice for pipe tobacco.

(a) *Product designation.* Every package of pipe tobacco shall, before removal subject to internal revenue tax, have adequately imprinted thereon, or on a label securely fixed 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 internal revenue 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 48841, Nov. 27, 1989. Re-designated by T.D. ATF-381, 61 FR 37004, July 16, 1996]

§41.72b 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 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]

§41.72c Package use-up rule.

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

(b) An importer of roll-your-own tobacco may continue to place roll-your-own tobacco in packages that do not meet the marking requirements of §41.72b(b) until April 1, 2000.

(c) An importer of roll-your-own tobacco may continue to place roll-your-own tobacco in packages that do not meet the requirements of §41.72b(a) until October 1, 2000.

[T.D. ATF-427, 65 FR 40051, June 29, 2000. Re-designated and amended by T.D. TTB-16, 69 FR 52424, 52425, Aug. 26, 2004]

§41.73 Notice for cigars.

Before removal subject to internal revenue tax, every package of cigars, except as provided in §41.75, 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. Re-designated and amended by T.D. TTB-16, 69 FR 52424, 52425, Aug. 26, 2004]

§41.74 Notice for cigarettes.

Every package of cigarettes, except as provided in §41.75, shall, before removal subject to internal revenue 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