

**§ 53.3 Exemption certificates.**

Several provisions of 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 by the provisions of this part. These certificates are available as preprinted documents, which may be ordered by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202. The preprinted certificates may be reproduced as needed.

[T.D. TTB-44, 71 FR 16957, Apr. 4, 2006]

**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.

*Administrator.* The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

*Appropriate TTB officer.* An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement of this part by TTB Order 1135.53, Delegation of the Administrator’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.

*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.

*Knockdown condition.* A taxable article that is unassembled but complete as to all component parts.

*Manufacturer.* Includes any person who produces a taxable article from scrap, salvage, or junk material, or from new or raw material, by processing, manipulating, or changing the form of an article or by combining or assembling two or more articles. The term also includes a "producer" and an "importer." Under certain circumstances, as where a person manufactures or produces a taxable article for another person who furnishes materials under an agreement whereby the person who furnished the materials retains title thereto and to the finished article, the person for whom the taxable article is manufactured or produced, and not the person who actually manufactures or produces it, will be considered the manufacturer.

A manufacturer who sells a taxable article in a knockdown condition is liable for the tax as a manufacturer. Whether the person who buys such component parts or accessories and assembles a taxable article from them will be liable for tax as a manufacturer of a taxable article will depend on the relative amount of labor, material, and overhead required to assemble the completed article and on whether the article is assembled for business or personal use.

*Person.* An individual, trust, estate, partnership, association, company, or corporation. When used in connection with penalties, seizures, and forfeitures, the term includes an officer or employee of a partnership, who as an officer, employee or member, is under a duty to perform the act in respect of which the violation occurs.

*Pistols.* Small projectile firearms which have a short one-hand stock or butt at an angle to the line of bore and a short barrel or barrels, and which are designed, made, and intended to be aimed and fired from one hand. The term does not include gadget devices, guns altered or converted to resemble pistols, or small portable guns erroneously referred to as pistols, as, for example, Nazi belt buckle pistols, glove

pistols, or one-hand stock guns firing fixed shotgun or fixed rifle ammunition.

*Possession of the United States.* Includes Guam, the Midway Islands, Palmyra, the Panama Canal Zone, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, and Wake Island.

*Purchaser.* Includes a lessee where the lessor is also the manufacturer of the article.

*Revolvers.* Small projectile firearms of the pistol type, having a breech-loading chambered cylinder so arranged that the cocking of the hammer or movement of the trigger rotates it and brings the next cartridge in line with the barrel for firing.

*Sale.* An agreement whereby the seller transfers the property (that is, the title or the substantial incidents of ownership in goods) to the buyer for a consideration called the price, which may consist of money, services, or other things.

*Secretary.* The Secretary of the Treasury or his delegate.

*Shells and cartridges.* Include any article consisting of a projectile, explosive, and container that is designed, assembled, and ready for use without further manufacture in firearms, pistols or revolvers. A person who reloads used shell or cartridge casings is a manufacturer of shells or cartridges within the meaning of section 4181 if such reloaded shells or cartridges are sold by the reloader. However, the reloader is not a manufacturer of shells or cartridges if, in return for a fee and expenses, he reloads casings of shells or cartridges submitted by a customer and returns the reloaded shells or cartridges with the identical casings provided by the customer to that customer. Under such circumstances, the customer would be the manufacturer of the shells or cartridges and may be liable for tax on the sale of articles. See section 4218 of the Code and § 53.112.

*Taxable article.* Any article taxable under section 4181 of the Code.

*Treasury Account.* The Department of Treasury's General Account at the Federal Reserve Bank of New York.

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*Vendor.* Includes a lessor where the lessor is also the manufacturer of the article.

[T.D. ATF-308, 56 FR 303, Jan. 3, 1991, as amended by T.D. ATF-312, 56 FR 31083, July 9, 1991; T.D. ATF-330, 57 FR 40325, Sept. 3, 1992; T.D. ATF-365, 60 FR 33670, June 28, 1995; T.D. ATF-404, 63 FR 52603, Oct. 1, 1998; T.D. ATF-447, 66 FR 19088, Apr. 13, 2001; T.D. TTB-44, 71 FR 16957, Apr. 4, 2006]

### Subpart C—Administrative and Miscellaneous Provisions

#### § 53.20 Delegations of the Administrator.

The regulatory authorities of the Administrator contained in this part are delegated to appropriate TTB officers. These TTB officers are specified in TTB Order 1135.53, Delegation of the Administrator's Authorities in 27 CFR Part 53, Manufacturers Excise Taxes—Firearms and Ammunition. You may obtain a copy of this order by accessing the TTB Web site (<http://www.ttb.gov>) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T.D. TTB-44, 71 FR 16957, Apr. 4, 2006]

#### § 53.21 Forms prescribed.

(a) The appropriate TTB officer is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part. The form will be filed in accordance with the instructions on the form.

(b) Forms prescribed by this part are available for printing through the TTB Web site (<http://www.ttb.gov>) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

(c) *Signature authorization.* An individual's signature on a return, statement, or other document made by or for a corporation or a partnership shall be prima facie evidence that the indi-

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vidual is authorized to sign the return, statement, or other document.

[T.D. ATF-308, 56 FR 303, Jan. 3, 1991. Redesignated in part by T.D. ATF-365, 60 FR 33670, June 28, 1995, as amended by T.D. 372, 61 FR 20724, May 8, 1996; T.D. ATF-447, 66 FR 19088, Apr. 13, 2001; T.D. TTB-44, 71 FR 16957, Apr. 4, 2006]

#### § 53.22 Employer identification number.

(a) *Requirement of application.* (1) Except for one-time or occasional filers, every person who makes a sale or use of an article with respect to which a tax is imposed by section 4181 of the Code, and who has not earlier been assigned an employer identification number or has not applied for one, shall make an application on Form SS-4 for an employer identification number. The application and any supplementary statement accompanying it shall be prepared in accordance with the applicable form, instructions, and regulations and shall set forth fully and clearly the data therein called for. Form SS-4 may be obtained from any internal revenue district office or internal revenue service center. The application shall be filed with the internal revenue officer designated in the instructions applicable to Form SS-4. The application shall be signed by:

(i) The individual if the person is an individual;

(ii) The president, vice-president, or other principal officer, if the person is a corporation;

(iii) A responsible and duly authorized member or officer having knowledge of its affairs, if the person is a partnership or other unincorporated organization; or

(iv) The fiduciary, if the person is a trust or estate.

An employer identification number will be assigned to the person in due course upon the basis of information reported on the application required under this section.

(2) *Time for filing Form SS-4.* The application for an employer identification number shall be filed no later than the seventh day after the date of the first sale or use of an article with respect to which a tax is imposed by chapter 32 of the Code. However, the application should be filed far enough