

§ 53.161

The deposits due on September 11, 1995, and September 25, 1995, would ordinarily be due on September 9, 1995, and September 24, 1995, respectively. However, because September 9, 1995, is a Saturday, and September 24, 1995, is a Sunday, under section 7503, D has until September 11, 1995, to make the deposit due on September 9, 1995, and until September 25, 1995, to make the deposit due on September 24, 1995.

(3) *Filing requirement.* E must file a return on Form 5300.26 for the third calendar quarter of 1995 reporting E's \$38,000 tax liability (§53.153(a)). E must also pay \$8,000, the underpayment amount by which the total tax liability for the third calendar quarter exceeds the total tax liability for the look-back quarter, by the due date of the return.

[T.D. ATF-365, 60 FR 33671, June 28, 1995, as amended by T.D. ATF-447, 66 FR 19089, Apr. 13, 2001; T.D. TTB-44, 71 FR 16958, Apr. 4, 2006]

§ 53.161 Authority to make credits or refunds.

For provisions relating to credits and refunds of certain taxes on sales and services see section 6416 of the Code and §§ 53.171-53.186. For regulations under section 6402 of the Code of general application in respect of credits or refunds, see 27 CFR 70.122, 70.123, and 70.124 (Procedure and Administration).

§ 53.162 Abatements.

For regulations under section 6404 of the Code of general application in respect of abatements of assessments to tax, see 27 CFR 70.125 (Procedure and Administration).

§§ 53.163-53.170 [Reserved]

§ 53.171 Claims for credit or refund of overpayments of manufacturers taxes.

Any claims for credit or refund of an overpayment of a tax imposed by chapter 32 of the Code shall be made in accordance with the applicable provisions of this subpart and the applicable provisions of 27 CFR 70.123 (Procedure and Administration). A claim on TTB Form 2635 (5620.8) is not required in the case of a claim for credit, but the amount of the credit shall be claimed by entering that amount as a credit on a return of tax under this subpart filed by the person making the claim. In this regard, see § 53.185.

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§ 53.172 Credit or refund of manufacturers tax under chapter 32.

(a) *Overpayment not described in section 6416(b)(2) of the Code—(1) Claims included.* This paragraph applies only to claims for credit or refund of an overpayment of manufacturers tax imposed by Chapter 32. It does not apply, however, to a claim for credit or refund on any overpayment described in paragraph (b) of this section which arises by reason of the application of section 6416(b)(2) of the Code.

(2) *Supporting evidence required.* No credit or refund of any overpayment to which this paragraph (a) applies shall be allowed unless the person who paid the tax submits with the claim a written consent of the ultimate purchaser to the allowance of the credit or refund, or submits with the claim a statement, supported by sufficient available evidence, asserting that:

(i) The person has neither included the tax in the price of the article with respect to which it was imposed nor collected the amount of the tax from a vendee, and identifying the nature of the evidence available to establish these facts, or

(ii) The person has repaid the amount of the tax to the ultimate purchaser of the article.

(3) *Ultimate purchaser—(i) General rule.* The term “ultimate purchaser”, as used in paragraph (a)(2) of this section, means the person who purchased the article for consumption, or for use in the manufacture of other articles and not for resale in the form in which purchased.

(ii) *Special rule under section 6416(a)(3)—(A) Conditions to be met.* If tax under chapter 32 of the Code is paid in respect of an article and the appropriate TTB officer determines that the article is not subject to tax under chapter 32, the term “ultimate purchaser”, as used in paragraph (a)(2) of this section, includes any wholesaler, jobber, distributor, or retailer who, on the 15th day after the date of the determination holds for sale any such article with respect to which tax has been paid, if the claim for credit or refund of the overpayment in respect of the articles held for sale by wholesaler, jobber, distributor, or retailer is filed on or before the date on which the person who