

§ 40.257

that is, a permit to manufacture tobacco products is conditioned upon a person's principal business activity being the manufacture of tobacco products. A permit may be suspended, and subsequently revoked, if the person's principal business activity under such permit is to receive or transfer tobacco products in bond, or if the person has no activity under such permit for a period of one year. As a minimum activity requirement, the quantity of tobacco products manufactured under the permit must be equivalent to, or exceed, the quantity transferred or received in bond under the permit.

EFFECTIVE DATE NOTES: 1. By T.D. TTB-78, at 74 FR 29410, June 22, 2009, § 40.256 was added, effective June 22, 2009 through June 22, 2012.

2. By T.D. TTB-80, at 74 FR 37552, July 29, 2009, § 40.256 was amended in the last sentence by removing the word "exceed" and adding in its place the words "be equivalent to, or exceed," effective July 29, 2009 through June 22, 2012.

§ 40.257 Processed tobacco.

A manufacturer of tobacco products may be required to obtain authorization from the appropriate TTB officer with regard to the activities involving processed tobacco. See § 40.72. Such manufacturers also must maintain records and may be required to submit reports regarding such activities. See §§ 40.182 and 40.202.

EFFECTIVE DATE NOTE: By T.D. TTB-78, at 74 FR 29410, June 22, 2009, § 40.257 was added, effective June 22, 2009 through June 22, 2012.

Subpart I—Claims by Manufacturers

GENERAL

§ 40.281 Abatement of assessment.

A claim for abatement of the unpaid portion of the assessment of any tax on tobacco products or any liability in respect thereof, may be allowed to the extent that such assessment is excessive in amount, is assessed after expiration of the applicable period of limitation, or is erroneously or illegally assessed. Any claim under this section shall be prepared on Form 2635 (5620.8), in duplicate, and shall set forth the particulars under which the claim is

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filed. The original of the claim, accompanied by such evidence as is necessary to establish to the satisfaction of the appropriate TTB officer that the claim is valid, shall be filed with the appropriate TTB officer, and the duplicate of the claim shall be retained by the manufacturer.

(68A Stat. 792; 26 U.S.C. 6404)

[T.D. 6871, 31 FR 38, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28083, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-251, 52 FR 19340, May 22, 1987]

§ 40.282 Allowance of tax.

Relief from the payment of tax on tobacco products may be extended to a manufacturer by allowance of the tax where the tobacco products after removal from the factory upon determination of tax and prior to the payment of such tax, are lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, while in the possession or ownership of the manufacturer who removed such products, or are withdrawn by him from the market. Any claim for allowance under this section shall be filed on Form 2635, in duplicate, with the appropriate TTB officer, and shall show the date the tobacco products were removed from the factory. A claim relating to products lost or destroyed shall be supported as prescribed in § 40.301. In the case of a claim relating to tobacco products withdrawn from the market the schedule prescribed in § 40.311 shall be filed with the appropriate TTB officer. The manufacturer may not anticipate allowance of his claim by making the adjusting entry in a tax return pending consideration and action on the claim. Tobacco products to which such a claim relates must be shown as removed on determination of tax in the return covering the period during which such products were so removed. Upon action on the claim by the appropriate TTB officer he will return the copy of Form 2635 to the manufacturer as notice of such action, which copy, with the copy of any verified supporting schedules, shall be retained by the manufacturer. When such notification of allowance of the claim or any part thereof is received prior to the time the return covering the tax on the