

## Alcohol and Tobacco Tax and Trade Bureau, Treasury

## § 40.211

and the duplicate shall be retained by the manufacturer.

(Approved by the Office of Management and Budget under control number 1512-0358)

(72 Stat. 1422, 1423, as amended; 26 U.S.C. 5721, 5741)

[T.D. 6871, 31 FR 35, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-172, 49 FR 14943, Apr. 16, 1984; T.D. ATF-232, 51 FR 28081, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-424, 64 FR 71931, Dec. 22, 1999; T.D. TTB-91, 76 FR 5480, Feb. 1, 2011]

EFFECTIVE DATE NOTE: By T.D. TTB-78, at 74 FR 29409, June 22, 2009, § 40.201 was amended by adding after the words “all tobacco products and” the word “processed”, effective June 22, 2009 through June 22, 2012.

### § 40.202 Reports.

(a) *Monthly report.* Every manufacturer of tobacco products shall make a report on Form 5210.5, in duplicate, for each month and for any portion of a month during which he engages in such business. Such report shall be made regardless of whether any operations or transactions occurred during the month or portion of a month covered therein. The report for a month or portion of a month in which business is commenced or is concluded shall be conspicuously marked “Commencing Report” or “Concluding Report,” respectively. The original of the report shall be submitted to the appropriate TTB officer not later than the 20th day of the month succeeding the month covered therein, and the duplicate shall be retained by the manufacturer. Each report shall show, for the period covered, the total quantity of tobacco products:

- (1) Manufactured,
- (2) Received in bond,
- (3) Received by return to bond,
- (4) Disclosed by inventory as an overage,
- (5) Removed subject to tax,
- (6) Removed in bond,
- (7) Otherwise disposed of without determination of tax,
- (8) Disclosed by inventory as a shortage, and
- (9) On hand, in bond, beginning of and end of month.

(b) *Report of processed tobacco removed.* In addition to the recordkeeping and reporting requirements set forth elsewhere in this part, a manufacturer

of tobacco products who removes processed tobacco from the factory premises for any purpose other than destruction must record and report those removals in accordance with § 40.522 of this part.

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(Sec. 202, Pub. L. 85-859, 72 Stat. 1422 (26 U.S.C. 5722))

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EFFECTIVE DATE NOTE: By T.D. TTB-78, at 74 FR 29409, June 22, 2009, § 40.202 was amended by revising paragraph (b) and the Office of Management and Budget control number reference, effective June 22, 2009 through June 22, 2012.

## PACKAGES

### § 40.211 Package.

All tobacco products shall, before removal subject to tax, be put up by the manufacturer in packages which shall be of such construction as will securely contain the products therein and maintain the mark and the notice thereon as required by this part. No package of tobacco products shall have contained therein, attached thereto, 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. No person may purchase, receive, possess (except for personal consumption), offer for sale, or sell or otherwise dispose of, after removal, any tobacco products that are not put up in packages bearing the marks, labels, and notices, as required under this part.

(26 U.S.C. 5723 and 5751)

[T.D. 6871, 31 FR 36, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28081, Aug. 5, 1986 T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]