Alcohol and Tobacco Tax and Trade Bureau, Treasury § 46.207

(a) The quantity and type of each article subject to floor stocks tax recorded in sufficient detail to determine the tax rate as stated in § 46.222. See the table in § 46.201(c) for the information required for each type of article;

(b) The date and time the inventory was taken;

(c) The name of the individual(s) conducting the inventory and the name of the dealer for whom the inventory was taken; and

(d) The location where the inventory was taken (street address, city and State).

(Approved by the Office of Management and Budget under control number 1513–0129)

§ 46.203 Record (book) inventory requirements.

(a) The dealer may use a record (book) inventory if the dealer has source records that show:

(1) The quantities of receipts and dispositions of all articles subject to floor stocks tax;

(2) The types and quantities of articles actually on hand as if a physical inventory had taken place on April 1, 2009. See the table in § 46.201(c) for the information required for each type of article;

(3) The name and address of the consignor and consignee. For over the counter sales by retail dealers, the consignee name and address is not required;

(4) The date of receipt or disposition of the articles; and

(5) The brand name of each product.

(b) If the dealer does not take the inventory as of the close of business on the last business day before April 1, 2009, the records must be reconciled as provided in § 46.201(b).

(Approved by the Office of Management and Budget under control number 1513–0129)

§ 46.204 Articles in transit.

The dealer must include articles subject to floor stocks tax that are in transit in the inventory if the dealer holds title to those articles. If the dealer has transferred title to the article, the dealer must document the title transfer in writing. For example, the dealer may mark the bill of lading with a written statement that indicates the time and place of the title transfer.

(Approved by the Office of Management and Budget under control number 1513–0129)

§ 46.205 Guidelines to determine title to articles in transit.

The dealer may use the following guidelines to establish who holds title to articles in transit.

(a) If State law mandates the change in title, then no agreement or contract between seller and buyer can alter it.

(b) In the absence of State law governing the change of title between seller and buyer, the Uniform Commercial Code allows the seller and buyer to agree when title passes.

(c) If there is no State law or agreement between the seller and buyer, the Uniform Commercial Code states that title transfer depends on how the seller ships the articles.

(1) If the shipment is free on board (F.O.B.) destination, the title transfer occurs when the seller completes the physical delivery of the articles.

(2) If the shipment is free on board (F.O.B.) shipping point, the title transfer occurs at the time and place of shipment, which is generally by common carrier.

§ 46.206 Articles in a foreign trade zone.

If articles subject to floor stocks tax are stored in a foreign trade zone established under the Foreign Trade Zone Act (the Act of June 18, 1934, 48 Stat. 998, 19 U.S.C. 81a et seq.), the dealer is liable for the tax and must take an inventory in accordance with § 46.207 or when either of the following conditions apply:

(a) Internal revenue taxes have been determined or customs duties liquidated, with respect to the articles pursuant to the first proviso of section 3(a) of the Foreign Trade Zone Act; or

(b) Articles are held by a customs officer pursuant to the second proviso of section 3(a) of the Foreign Trade Zone Act.

§ 46.207 Articles held in bond.

If the dealer is a manufacturer or an export warehouse proprietor and holds articles in TTB bond on April 1, 2009, the floor stocks tax does not apply to
§ 46.208 Unmerchantable articles.

Articles that the dealer holds for return to a supplier because of some defect are not subject to the floor stocks tax. However, the dealer must segregate any such unmerchantable articles and include them in a separate section of the inventory record. The dealer cannot include as unmerchantable any items that may be held because of poor market demand or to reduce the dealer’s inventory. If, for any reason, the tobacco products or cigarette papers or tubes that were determined to be unmerchantable are not subsequently returned or destroyed, the dealer must file an additional floor stocks tax return and pay tax on such products plus any applicable penalties and interest.

(Approved by the Office of Management and Budget under control number 1513-0129)

§ 46.209 Articles in vending machines.

There is no exemption for articles in vending machines. They are subject to the floor stocks tax and must be included in the dealer’s inventory record.

§ 46.210 Articles marked “not for sale” or “complimentary”.

Articles marked “not for sale” or “complimentary” that are part of a sale (for example, buy two packs and get one pack free) are subject to the floor stocks tax and must be included in the physical or record (book) inventory as provided in §§ 46.202 or 46.203.

TAX LIABILITY CALCULATION

§ 46.221 Floor stocks tax rates.

<table>
<thead>
<tr>
<th>Product</th>
<th>Floor stocks tax rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Small cigars</td>
<td>$48.502 per thousand.</td>
</tr>
<tr>
<td>Small cigarettes</td>
<td>30.83 per thousand.</td>
</tr>
</tbody>
</table>

§ 46.222 Determination of amount of tax due.

After the dealer has taken the inventory, the dealer must convert the inventory quantities to taxable units using the table below. For tobacco products, round the quantities to two decimal places. The dealer must then apply the applicable tax rate for each type of taxable article using the table in § 46.221 to determine the amount of tax due.

<table>
<thead>
<tr>
<th>Product</th>
<th>Computation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Small cigars weighing not more than 3 pounds thousand.</td>
<td>Divide number of cigars by 1,000 and multiply by the small cigar tax rate.</td>
</tr>
<tr>
<td>Large cigarettes weighing more than 3 pounds thousand, measuring 6 1/2 inches or less in length.</td>
<td>Mathematically adjust the number of large cigarettes using the instructions below.* Multiply the adjusted number of large cigarettes by 1,000 and multiply by the large cigarette tax rate.</td>
</tr>
<tr>
<td>Small cigarettes weighing not more than 3 pounds thousand, measuring more than 6 1/2 inches in length.</td>
<td>Mathematically adjust the number of small cigarettes using the instructions below.* Multiply the adjusted number of small cigarettes by 1,000 and multiply by the small cigarette tax rate.</td>
</tr>
<tr>
<td>Pipe tobacco</td>
<td>Multiply the total in pounds by the pipe tobacco tax rate.</td>
</tr>
<tr>
<td>Cigarette papers</td>
<td>Multiply the total in pounds by the roll-your-own tax rate.</td>
</tr>
<tr>
<td>Tobacco papers</td>
<td>Multiply the total in pounds by the roll-your-own tax rate.</td>
</tr>
</tbody>
</table>

* Mathematically adjust the number of cigarette papers by 50, add 1 if there is a remainder, and multiply that number by the cigarette paper tax rate.

Mathematically adjust the number of cigarette papers using the instructions below.* Divide the adjusted number of cigarette papers by 50, add 1 if there is a remainder, and multiply that number by the cigarette paper tax rate.