

## Commodity Credit Corporation, USDA

## § 1463.7

with respect to succeeding calendar year quarters.

### § 1463.5 Division of national assessment among classes of tobacco.

(a) Except as provided in paragraph (b) of this section, the national assessment will be divided by CCC among each class of tobacco based upon CCC's determination of each class's share of the excise taxes paid using for all years the tax rates that applied in fiscal year 2005. The value of the excise taxes paid for each class of tobacco will be based upon the reports filed by domestic manufacturers and importers of tobacco products with the Department of the Treasury and the Department of Homeland Security:

(b) For fiscal year 2005, the national assessment will be divided as follows:

- (1) Cigarettes, 96.331 percent;
- (2) Cigars, 2.783 percent;
- (3) Snuff, 0.539 percent;
- (4) Roll-your-own tobacco products, 0.171 percent;
- (5) Chewing tobacco, 0.111 percent; and
- (6) Pipe tobacco, 0.066 percent.

(c) For fiscal years 2006 through 2014, the division of the national assessment for each class of tobacco will be adjusted annually.

[70 FR 7011, Feb. 10, 2005, as amended at 75 FR 76923, Dec. 10, 2010]

### § 1463.6 Determination of persons liable for payment of assessments.

(a) All domestic manufacturers and importers of tobacco products are required to pay to CCC their proportionate share of a calendar year's national assessment. Such entities are those that import or manufacture tobacco products in a calendar year and are required to report to the United States Department of the Treasury or to the Department of Homeland Security the removal of tobacco products into domestic commerce under the Revenue Code or are required to pay taxes under chapter 52 of such code.

(b)(1) Such entities must provide to CCC's point of contact:

- (i) Entity name; mailing address of the entity's principal place of business; an office or individual that CCC may contact for further information; an e-mail address and postal address at

which they wish to receive notifications required by the Act to be made to them by CCC; and

(ii) On a monthly basis for each class of tobacco, the total amount of tobacco products, summarized by employer identification number or such other method as may be prescribed by CCC, that are required to be reported to the United States Department of the Treasury or to the Department of Homeland Security in each month beginning October 1, 2004, and ending September 30, 2014.

(2) The information required to be submitted to CCC under paragraph (b)(1) of this section must be submitted by:

(i) With respect to fiscal year 2005 activities occurring prior to February 10, 2005, by February 25, 2005; and

(ii) With respect to all other activities, on the same date the information was required to be submitted to the United States Department of the Treasury or to the Department of Homeland Security.

### § 1463.7 Division of class assessment to individual entities.

(a) In order to determine the assessment owed by an entity, that portion of the national assessment assigned to each class of tobacco will be further divided at the entity level. The amount of the assessment for each class of tobacco to be paid by each domestic manufacturer and importer of tobacco products will be determined by multiplying:

(1) With respect to each class of tobacco, the adjusted market share of such manufacturer or importer; by

(2) The total amount of the assessment for that class of tobacco for the calendar year quarter.

(b) For purposes of determining the volume of domestic sales of each class of tobacco products and for each entity, such sales shall be based upon the reports filed by domestic manufacturers and importers of tobacco with the Department of Treasury and the Department of Homeland Security and shall correspond to the quantity of the tobacco product that is removed into domestic commerce by each such entity:

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(1) For cigarettes and cigars, on the number of cigarettes and cigars reported on such reports;

(2) For all other classes of tobacco, on the number of pounds of those products.

(c) In determining the adjusted market share of each manufacturer or importer of a class of tobacco products, except for cigars, CCC will determine to the fourth decimal place an entity's share of excise taxes paid of that class of tobacco product during the immediately prior calendar year quarter. With respect to cigars, CCC will determine the adjusted market share for each manufacturer or importer of a class of tobacco products based on the number of such products removed into domestic commerce.

(d) The amount of a quarterly assessment owed by a domestic manufacturer or importer of tobacco products that must be remitted to CCC by the end of a calendar year quarter is based upon the application of the manufacturer's or importer's adjusted market share to the amount of the national assessment that has been allocated to one of the six specified tobacco product sectors under §1463.5. As provided in §1463.3, this adjusted market share is determined by the actions of such manufacturer or importer in a prior calendar year quarter. Accordingly, this amount must be remitted to CCC whether or not the manufacturer or importer is engaged in the removal of tobacco or tobacco products into commerce in the calendar year quarter in which it receives notification of the amount of assessment owed to CCC.

[70 FR 7011, Feb. 10, 2005, as amended at 70 FR 17158, Apr. 4, 2005]

**§ 1463.8 Notification of assessments.**

(a) Once CCC has determined a national assessment, CCC will collect that amount on a quarterly basis from all domestic manufacturers and importers of tobacco products subject to §1463.5.

(b) 30 calendar days prior to the end of each calendar year quarter domestic manufacturers and importers of tobacco products will receive notification of:

- (1) The national assessment;

(2) The percentage of the national assessment that has been allocated to each class of tobacco product and the total amount of assessments due from each such class;

(3) Any adjustments that have been from the prior fiscal year with respect to the allocation of the gross domestic volume determined for use in a fiscal year among the classes of tobacco products;

(4) An adjustment in the national assessment if CCC determines that the assessments imposed will result in insufficient funds due to changes in the amount of expenditures that CCC has determined will be made in a calendar year;

(5) The volume of gross sales of each class of tobacco that CCC has allocated to the domestic manufacturer or importer of tobacco products for the purposes of determining such entity's adjusted market share. The volume of gross sales of each class of tobacco allocated to such an entity shall correspond to the quantity of the tobacco product that is removed into domestic commerce by each such entity;

(6) The total volume of gross sales of each class of tobacco that CCC has allocated to a class of tobacco, within the gross domestic volume determined for use in a fiscal year, that was used for the purpose of determining a tobacco manufacturer's or tobacco importer's adjusted market share. The total volume of gross sales of each such class of tobacco shall correspond to the total quantity of the tobacco product that is removed into domestic commerce.

(7) For that quarter, the adjusted market share of the domestic manufacturer or importer of tobacco products;

(8) Beginning with the 2nd quarter of 2008, or as soon as practicable thereafter, the applied market share for that quarter of each other manufacturer and importer, for the applicable class of tobacco product of those manufacturers and importers that have provided such information to CCC in accordance with the provisions of §1463.6, as determined by the Deputy Administrator, Farm Service Agency.

(9) The manner in which assessments are to be remitted to CCC; and