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# INDUSTRY CIRCULAR

OFFICE OF THE COMMISSIONER OF INTERNAL REVENUE  
ALCOHOL AND TOBACCO TAX DIVISION



WASHINGTON, D. C. 20224

Industry Circular No. 67-13

October 18, 1967

## REGULATIONS COVERING SEMIMONTHLY TAX RETURNS

Manufacturers of tobacco products:

**Purpose.** The purpose of this industry circular is to advise you of the issuance of Treasury Decision 6929 (32 F.R. 13865) effective December 1, 1967, which relates to regulations in 26 CFR Part 270 entitled "Manufacture of Cigars and Cigarettes" and 26 CFR Part 296 entitled "Miscellaneous Regulations Relating to Cigars, Cigarettes, and Cigarette Papers and Tubes" and to furnish you with revised pages of Part 270 for insertion in your looseleaf copy.

**Background.** Treasury Decision 6849, effective September 24, 1965, added temporary transitional regulations (Subpart E) to 26 CFR Part 296 so that semimonthly return periods for the deferred payment of taxes on cigars and cigarettes would fall entirely within a calendar month, and provided for an extension of the time for filing such returns upon proper bond qualification. Treasury Decision 6929 merely removes these temporary transitional regulations from 26 CFR Part 296 and incorporates them into the permanent regulations in 26 CFR Part 270.

**Effect.** There is no substantive change in the new regulations for filing semimonthly tax returns. If you are qualified for extended deferral of the time for filing your semimonthly tax returns, i.e., not later than the last day of the next return period rather than not later than 3 business days following the end of the return period, you may continue extended deferral under the permanent regulations. You are not required to take any action. If you have not qualified for extended deferral and wish to do so, you should file a new bond or extension of coverage of bond in accordance with Section 270.142.

**Inquiries.** Inquiries regarding this circular should refer to its number and should be addressed to the office of your Assistant Regional Commissioner, Alcohol and Tobacco Tax.

A handwritten signature in cursive script, appearing to read "Harold A. Serr".  
Harold A. Serr

Director, Alcohol and Tobacco Tax Division

Attachment

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the protection of the revenue. Where a bond is not filed as required under the provisions of this section the manufacturer shall discontinue forthwith the operations to which such bond relates. (72 Stat. 1421; 26 U.S.C. 5711)

**§ 270.137 Extension of coverage of bond.**

An extension of coverage of bond shall be manifested on Form 2105 by the manufacturer of tobacco products and by the surety on the bond with the same formality and proof of authority as required for the execution of the bond. (72 Stat. 1421; 26 U.S.C. 5711)

**§ 270.138 Approval of bond and extension of coverage of bond.**

No person shall commence operations under any bond, nor extend his operations, until he receives from the assistant regional commissioner notice of his approval of the bond or of an appropriate extension of coverage of the bond required under this part. (72 Stat. 1421; 26 U.S.C. 5711)

**§ 270.139 Termination of bond.**

Any bond required by this part may be terminated by the assistant regional commissioner as to liability for future operations (a) pursuant to application by the surety as provided in the bond, (b) on approval of a superseding bond, or (c) when operations by the manufacturer are permanently discontinued in accordance with Subpart J. After a bond is terminated the surety shall remain bound with respect to any liability for unpaid taxes, penalties, and interest, not in excess of the amount of the bond, incurred by the manufacturer prior to the termination date.

(72 Stat. 1421; 26 U.S.C. 5711)

[T.D. 6840 (30 F.R. 9310) eff. 9-1-65]

**§ 270.140 Release of pledged securities.**

Securities of the United States pledged and deposited as provided in § 270.132 shall be released only in accordance with the provisions of 31 CFR Part 225. Such securities will not be released by the assistant regional commissioner until liability under the bond for which they were pledged has been terminated. When the assistant regional commissioner is satisfied that they may be released, he shall fix the date or dates on which a part or all of such securities may be released. At any time prior to the release of such securities, the assistant

regional commissioner may extend the date of release for such additional length of time as he deems necessary.

(61 Stat. 650, 72 Stat. 1421; 6 U.S.C. 15, 26 U.S.C. 5711)

**§ 270.141 Extension of coverage for bond executed prior to June 24, 1959.**

Every manufacturer of tobacco products who desires to remove cigars and cigarettes on determination of tax and before payment of tax shall, before such removal, have an approved extension of coverage of bond on Form 2105 on file with the assistant regional commissioner for every bond, Form 2100, executed prior to June 24, 1959, under which such removals are to be made. This extension of coverage shall be executed by the principal and the surety and shall be in the following form:

Whereas, the purpose of this extension is to bind the obligors for the payment of the tax on all tobacco products removed by the principal on determination of tax and before payment of the tax notwithstanding that the time for payment of tax may be deferred pursuant to a semimonthly return system as provided for by regulations.

Now, therefore, the above described bond is further specifically conditioned that the principal named therein shall pay all taxes (plus penalties, if any, and interest) for which he may become liable with respect to all tobacco products removed by him on determination of the tax and before payment of the tax thereon, and comply with all provisions of law and regulations with respect thereto.

The aforesaid terms and conditions shall, on and after the effective date, have the same force and effect as the other terms and conditions stated in the bond.

The extension of coverage of bond under this section is not required with respect to any bond executed on or after June 24, 1959.

(72 Stat. 1421, as amended; 26 U.S.C. 5711)

[T.D. 6871 (31 F.R. 32) eff. 1-1-66]

**§ 270.142 Qualification for extended deferrals.**

A manufacturer who desires to file return on Form 3071, with benefit of the extended deferral provided for in § 270.165, shall file a new bond on Form 3070, or file on Form 2105 an extension of coverage of his current bond. The manufacturer may receive the benefit of the extended deferral only after such bond or extension of coverage has been filed with and approved by the assistant

regional commissioner. A manufacturer who has given the applicable bond or extension of coverage required by this section may file returns with benefit of extended deferral commencing with the return for the first return period fully covered by such bond or extension of coverage. Each extension of coverage on Form 2105 shall identify the particular bond to which it applies and shall contain a statement of purpose as follows:

To continue in effect said bond (including all extensions or limitations of terms and conditions previously consented to and approved) notwithstanding that the periods to be covered by returns for the deferred payment of taxes on tobacco products, and the time for filing such returns, with remittances, have been changed as provided for by regulations.

(72 Stat. 1421; 26 U.S.C. 5711)

[T.D. 6929 (32 F.R. 13865) eff. 12-1-67]

### Subpart H—Operations by Manufacturers

#### DETERMINATION AND PAYMENT OF TAXES ON CIGARS AND CIGARETTES

##### § 270.161 Determination of tax and method of payment.

Except for removals in bond and transfers in bond, as authorized by law, the taxes imposed on cigars and cigarettes by section 5701, I.R.C., shall be determined at the time of removal of such products and paid on the basis of a return, in accordance with the provisions of this part.

(72 Stat. 1417; 26 U.S.C. 5703)

[T.D. 6929 (32 F.R. 13865) eff. 12-1-67]

##### § 270.162 Semimonthly tax return.

Every manufacturer of tobacco products shall file, for each of his factories, a semimonthly tax return on Form 3071, in triplicate, with the district director of the internal revenue district in which the factory is located, for each and every return period, including any period during which a manufacturer begins or discontinues business. He shall file such return at the time specified in § 270.165, regardless of whether cigars or cigarettes are removed or whether tax is due for that particular return period: *Provided*, That where the manufacturer so requests by letter, in duplicate, and the assistant regional commissioner grants specific authorization, the manufacturer need not, during the term of such authorization, file a tax return for any period for which tax is not due or payable. The manufacturer shall show, on the return, his employer identification number as required

by § 270.169, the kinds and quantities, and tax class in the case of large cigars, of cigars and cigarettes removed subject to tax during the semimonthly return period and the tax due thereon. The manufacturer shall serially number each return on Form 3071 commencing with the number "1" on the first return filed in any calendar year, and shall verify by a written declaration that the return is made under penalties of perjury. The manufacturer shall retain the receipted copy of each tax return transmitted to him by the district director. The payment of the tax with respect to cigars and cigarettes removed subject to tax may be deferred and paid on the basis of a semimonthly return filed not later than the third business day succeeding the last day of each return period as provided in § 270.165 only if the manufacturer has on file a bond of sufficient amount executed on or after June 24, 1959, or, in the case of a bond of sufficient amount executed prior to such date, only if the manufacturer has filed the extension of coverage of bond as prescribed in § 270.141. Otherwise, the tax with respect to such removals shall be prepaid with the return, Form 2617, as provided in § 270.167, and the semimonthly return required in this section shall be filed showing such prepayment and the serial number(s) of the Form(s) 2617 filed during the return period. A manufacturer may qualify for extended deferral for the filing of the semimonthly return if he files a new bond or extension of coverage of his current bond as provided in § 270.142.

(72 Stat. 1417, 1423, as amended; 26 U.S.C. 5703, 5741)

[T.D. 6929 (32 F.R. 13865) eff. 12-1-67]

##### § 270.163 Semimonthly tax return periods.

The periods to be covered in the semimonthly tax returns shall be from the 1st day of each month through the 15th day of that month and from the 16th day of each month through the last day of that month.

(72 Stat. 1417; 26 U.S.C. 5703)

[T.D. 6929 (32 F.R. 13865) eff. 12-1-67]

##### § 270.164 Adjustments in the semimonthly return.

A manufacturer may make adjustments in Schedules A and B of his semimonthly tax return, Form 3071, as provided in this section. Schedule A of the return will be used where an error resulted in an underpayment of tax or where a shortage in inventory is disclosed as set forth in § 270.255. Schedule B of

the return will be used where prepayment of tax has been made during the return period, or where notice has been received from the assistant regional commissioner that a claim for credit or allowance of tax has been approved. Schedule B may also be used as provided in § 270.286 where a computational error resulted in an overpayment of tax. In the case of an adjustment based on prepayment of tax, the serial number(s) of the prepayment return(s), Form 2617, shall be shown. Any adjustments made in a return must be fully explained in the appropriate schedule or in a statement attached to and made a part of the return in which such adjustment is made.

(68A Stat. 791, 72 Stat. 1417, as amended; 26 U.S.C. 6462, 5703)

[T.D. 6864 (30 F.R. 14794) eff. 10-1-65]

**§ 270.165 Times for filing semimonthly return.**

Returns on Form 3071, with remittances, for the return periods prescribed in § 270.163 shall be filed not later than the third business day succeeding the last day of each return period: *Provided*, That a manufacturer who has qualified as provided in § 270.142 for extended deferral shall file returns on Form 3071, with remittances, not later than the last day of the next succeeding return period: *And provided further*, That where the return and remittance are delivered by U.S. mail to the office of the district director, the date in the official postmark of the U.S. Post Office stamped on the cover in which the return and remittance were mailed shall be deemed to be the date of delivery. As used in this section, the term "business day" shall mean any day other than Saturday, Sunday, a legal holiday in the District of Columbia, or a statewide legal holiday in the State wherein the return is required to be filed.

(68A Stat. 895, as amended, 72 Stat. 1417; 26 U.S.C. 7502, 5703)

[T.D. 6929 (32 F.R. 13865) eff. 12-1-67]

**§ 270.166 Default, prepayment of tax required.**

Where a check or money order tendered with any return, whether semimonthly or prepayment, for payment of tax on cigars or cigarettes is not paid on presentment, where a manufacturer fails to remit with the return the full amount of tax due thereunder, or where a manufacturer is otherwise in default in payment of tax on cigars or cigarettes under the internal revenue laws or this chapter, during the period of such default and until the assistant regional

commissioner finds that the revenue will not be jeopardized by the deferred payment of tax pursuant to the provisions of this part, no cigars or cigarettes shall be removed subject to tax until the tax thereon has first been paid as provided in § 270.167. Any remittance made during the period of such default shall be in cash, or in the form of a certified, cashier's, or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States, or under the laws of any State or possession of the United States, or a U.S. postal money order or other money order as defined in § 301.6311-1 of this chapter (Procedure and Administration—Payment by check or money order).

(68A Stat. 777, 72 Stat. 1417; 26 U.S.C. 6311, 5703)

[T.D. 6871 (31 F.R. 32) eff. 1-1-66]

**§ 270.167 Prepayment tax return.**

To prepay the tax on cigars and cigarettes, a manufacturer shall file a prepayment tax return on Form 2617, in triplicate, with the district director of the internal revenue district in which the factory is located, showing the tax to be paid on the cigars and cigarettes prior to removal. The manufacturer shall serially number each return on Form 2617 commencing with the number "1" on the first return filed in any calendar year, show therein his employer identification number as required by § 270.169 and shall verify by a written declaration that the return is made under penalties of perjury. The return shall be filed with the district director prior to the removal of such products. The manufacturer shall retain the receipted copy of each prepayment return transmitted to him by the district director. A manufacturer prepaying the taxes on cigars and cigarettes under the provisions of this section shall continue to file semimonthly returns as required by § 270.162. Such semimonthly returns shall contain a statement, in Schedule B, that taxes have been prepaid by remittance with Form(s) 2617, and the statement shall indicate the serial number of Form(s) 2617 filed and the amount of taxes prepaid.

(72 Stat. 1417, 1423, as amended; 26 U.S.C. 5703, 5741)

[T.D. 6871 (31 F.R. 32) eff. 1-1-66]

**§ 270.168 Remittance with return.**

The tax on cigars and cigarettes shown to be due and payable on any return shall be paid by remittance in full with

the tax return. Such remittance may be in any form which the district director is authorized to accept under the provisions of § 301.6311-1 of this chapter (Procedure and Administration — Payment by check or money order) and which is acceptable to him, except as is otherwise specified in § 270.166. Checks and money orders shall be made payable to "Internal Revenue Service." In paying the tax, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(68A Stat. 778, 72 Stat. 1417; 26 U.S.C. 6313, 5703)

[T.D. 6871 (31 F.R. 32) eff. 1-1-66]

#### § 270.169 Employer identification number.

The employer identification number (defined at § 301.7701-12 of this chapter) of a manufacturer of tobacco products who has been assigned such a number shall be shown on each semimonthly tax return, Form 3071, and on each prepayment tax return, Form 2617, filed by a manufacturer of tobacco products pursuant to the provisions of this part on or after October 1, 1962. Failure of the manufacturer to include his employer identification number on Form 3071 or Form 2617 may result in assertion and collection of the penalty specified in § 301.6676-1 of this chapter.

(75 Stat. 828; 26 U.S.C. 6109, 6676)

[T.D. 6608 (27 F.R. 8526) eff. 10-1-62]

#### § 270.170 Application for employer identification number.

(a) An employer identification number will be assigned pursuant to application on Form SS-4 filed by a manufacturer of tobacco products. Form SS-4 may be obtained from the district director with whom the tax returns, Form 3071 and Form 2617, are required to be filed.

(b) An application on Form SS-4 for an employer identification number shall be made by every manufacturer of tobacco products who filed a return on Form 3071 or Form 2617 before October 1, 1962, and who has neither secured an employer identification number nor made application for such a number prior to October 1, 1962. Such application on Form SS-4 shall be filed on or before October 8, 1962.

(c) An application on Form SS-4 for an employer identification number shall be made by every manufacturer of to-

bacco products whose first return on Form 3071 or Form 2617 is filed on or after October 1, 1962, but who prior to the filing of such return has neither secured an employer identification number nor made application therefor. Such application on Form SS-4 shall be filed on or before the seventh day after the date on which such first return is filed.

(d) Each manufacturer of tobacco products shall make application for and shall be assigned only one employer identification number, regardless of the number of places of business for which the manufacturer is required to file returns pursuant to the requirements of this part.

(75 Stat. 828; 26 U.S.C. 6109)

[T.D. 6608 (27 F.R. 8526) eff. 10-1-62]

#### § 270.171 Execution of Form SS-4.

The application on Form SS-4, together with any supplementary statement, shall be prepared in accordance with the form, instructions, and regulations applicable thereto, and shall set forth fully and clearly the data therein called for. The application shall be filed with any district director with whom the returns on Form 3071 or Form 2617 are required to be filed by the person who is required to make the application. The application shall be signed by (a) the individual, if the person is an individual; (b) the president, vice president, or other principal officer, if the person is a corporation; (c) a responsible and duly authorized member or officer having knowledge of its affairs, if the person is a partnership or other unincorporated organization; or (d) the fiduciary, if the person is a trust or estate.

(75 Stat. 828; 26 U.S.C. 6109)

[T.D. 6608 (27 F.R. 8526) eff. 10-1-62]

### RECORDS

#### § 270.181 General.

Every manufacturer of tobacco products shall keep records of his operations and transactions which shall reflect, for each day, the information specified in §§ 270.182 and 270.183. For the aforesaid purpose "day" shall mean calendar day, except that the assistant regional commissioner may, upon application of the manufacturer by letter, in duplicate, authorize as such day for a factory a 24-hour cycle of operation other than the calendar day. A day once so established as other than the

calendar day may be changed only by like application approved by the assistant regional commissioner. A manufacturer who maintains commercial records from which the required information may be readily ascertained may utilize such records for this purpose. Where a manufacturer does not maintain commercial records which adequately reflect the information required by this part concerning cigars and cigarettes, he shall keep a record on Form 3065 with respect to large cigars and on Form 3066 with respect to small cigars and large and small cigarettes. The manufac-

turer shall keep the auxiliary and supplemental records from which such records are compiled and shall keep supporting records, as specified in §§ 270.184 and 270.186, of cigars and cigarettes removed subject to tax and transferred in bond. Except as provided in §§ 270.184 and 270.186 the entries in the commercial or form records so maintained or kept shall be made not later than the close of the business day next following that on which the transactions occur. As used in this section the term "business day" shall mean any day other than Saturday, Sunday, a legal holiday