2009 TTB Expo Presentation

The Technical Side of Exporting Tobacco Products

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Objectives

- Define what an export is
- Identify applicable laws and regulations
- Requirements for untaxed exports
- Requirements for taxed exports
- Proof of exportation
- TTB Information – www.ttb.gov
- Summary – What we learned today
- Practical Exercise

Concepts and Definitions

- Not Sold in U.S. – Tax Liability?
  - “Free of Tax”
  - “Without Payment of Tax”
  - “Benefit of Drawback of Tax”
- Exportation – defined as “Separation from the U.S.”
- When does separation occur?
- Kinds of export transactions

Laws

Title 26 United States Code —

- Section 5704:
  - Export "without payment of tax"
  - Products **must bear marks, labels, or notices to be eligible for untaxed export**

Laws (Continued)

- Section 5706:
  - Allowance of drawback on products exported
  - Bond is required
  - Export marks required

Regulations

Title 27 Code of Federal Regulations:

- Part 40 – Tobacco (Manufacture of Tobacco Products and Cigarette Papers and Tubes)
- Part 41 – Importation of Tobacco Products and Cigarette Papers and Tubes
- Part 44 – Exportation of Tobacco Products and Cigarette Papers and Tubes

Exports Without Payment of Tax

— By Manufacturer
— By Export Warehouse Proprietor

Untaxed Exports

- Tobacco products and cigarette papers and tubes may be exported without payment of tax when shipped from a manufacturer's premises or an export warehouse proprietor's premises.
- Exportation is covered by bond pending receipt of proof of exportation.

Export To?

- To a contiguous (Canada or Mexico) country
- To a non-contiguous country
- To a Foreign Trade Zone (FTZ)
- To a Customs Bonded Warehouse (CBW)
- For use as supplies on vessels and aircraft
- For use of U.S. Armed Forces, overseas

Forms

TTB F 5200.14:

- Required to be completed
- Notice copy to TTB
- Supported by commercial records

Restrictions — Supplies to Vessels and Aircraft

Restrictions — Supplies to Vessels and Aircraft

- 27 CFR 44.62 – Presents specific restrictions for delivery of tobacco products to vessels and aircraft for use as supplies for consumption beyond the internal revenue laws of the United States, engaged in foreign, intercoastal, or noncontiguous territorial trade carrying passengers or cargo

Restrictions — (Continued)

<u>Deliveries allowed to</u>:

Vessels clearing customs for port beyond jurisdiction of US internal revenue laws

Vessels of war or other governmental activity

Restrictions — (Continued)

Vessels operating between:

- U.S. port and foreign port
- Atlantic and Pacific ports of the US
- U.S. mainland port and AK, HI, PR, VI or other possessions or among them

Restrictions — (Continued)

<u>Deliveries allowed to</u>:

- Vessels of the United States engaged in the fishing business and foreign fishing vessels of 5 tons or over

Restrictions — (Continued)

<u>Deliveries allowed to</u>:

- Aircraft clearing customs en route to places beyond jurisdiction of U.S. internal revenue laws
- Aircraft operating on a regular schedule between US customs areas defined in 19 CFR Part 122

Restrictions — (Continued)

General Restrictions:

- Lading on vessel or aircraft is subject to Customs lading and supervision (see also 27 CFR 44.207 and 44.263)
- Customs authority to restrict quantity based on number of persons and duration of voyage
- Deliveries not permitted to vessel or aircraft stationed in the U.S. where scheduled operations are not outside U.S. jurisdiction

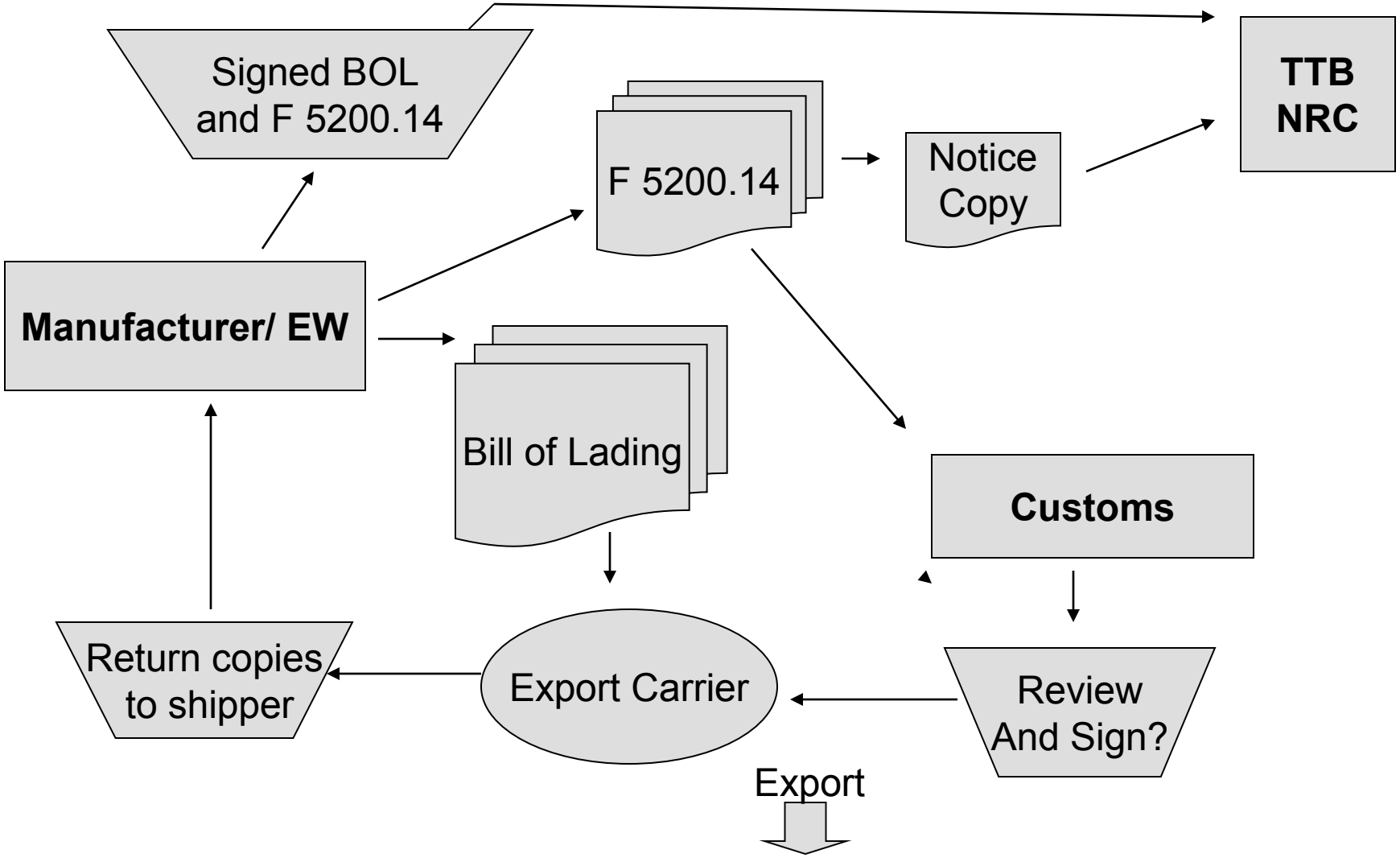
Export Process

Export Process

- The next slides illustrate the basic process for exporting a shipment of tobacco products, cigarette papers, or cigarette tubes from the U.S.

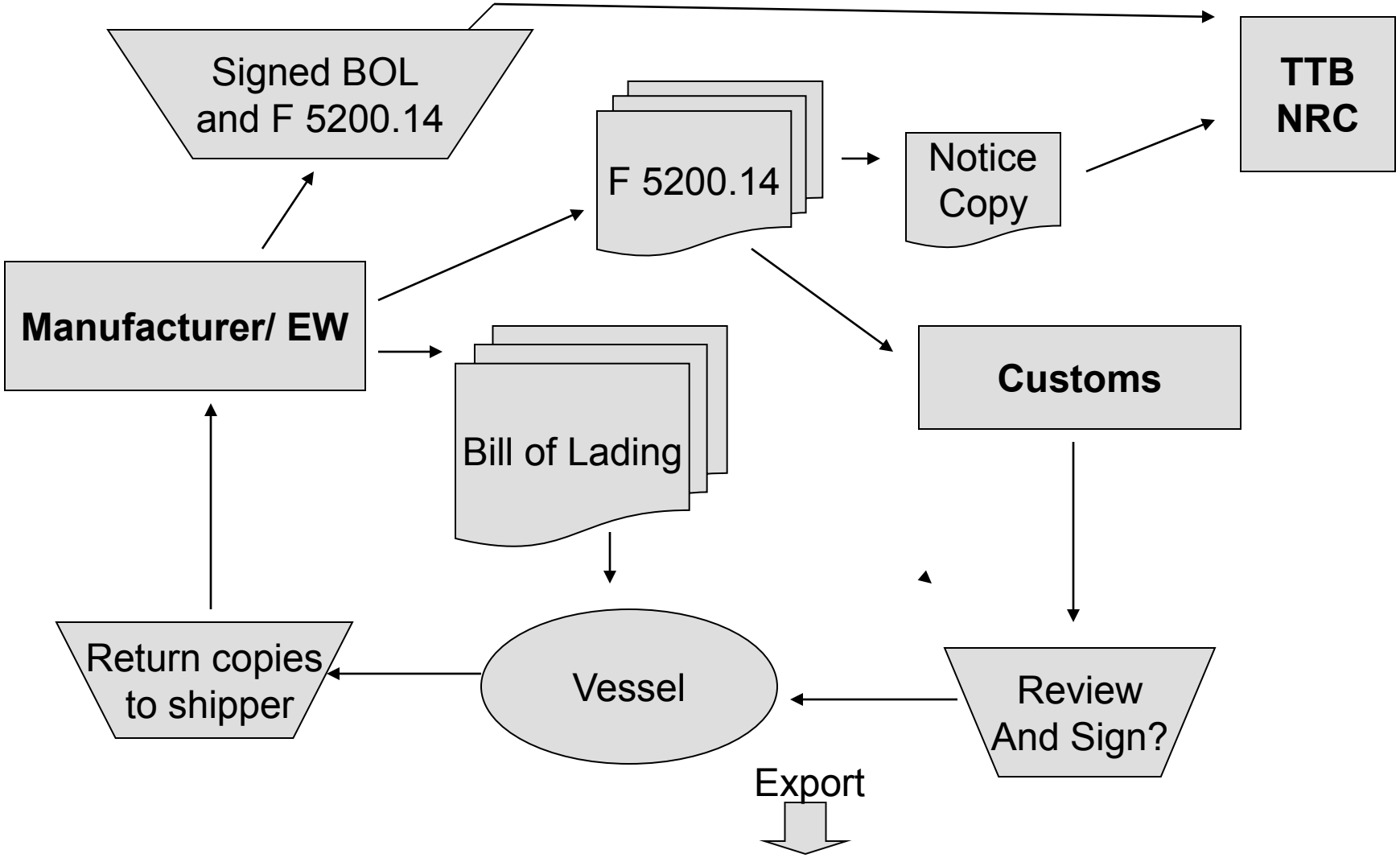
Export Process

(Continued)



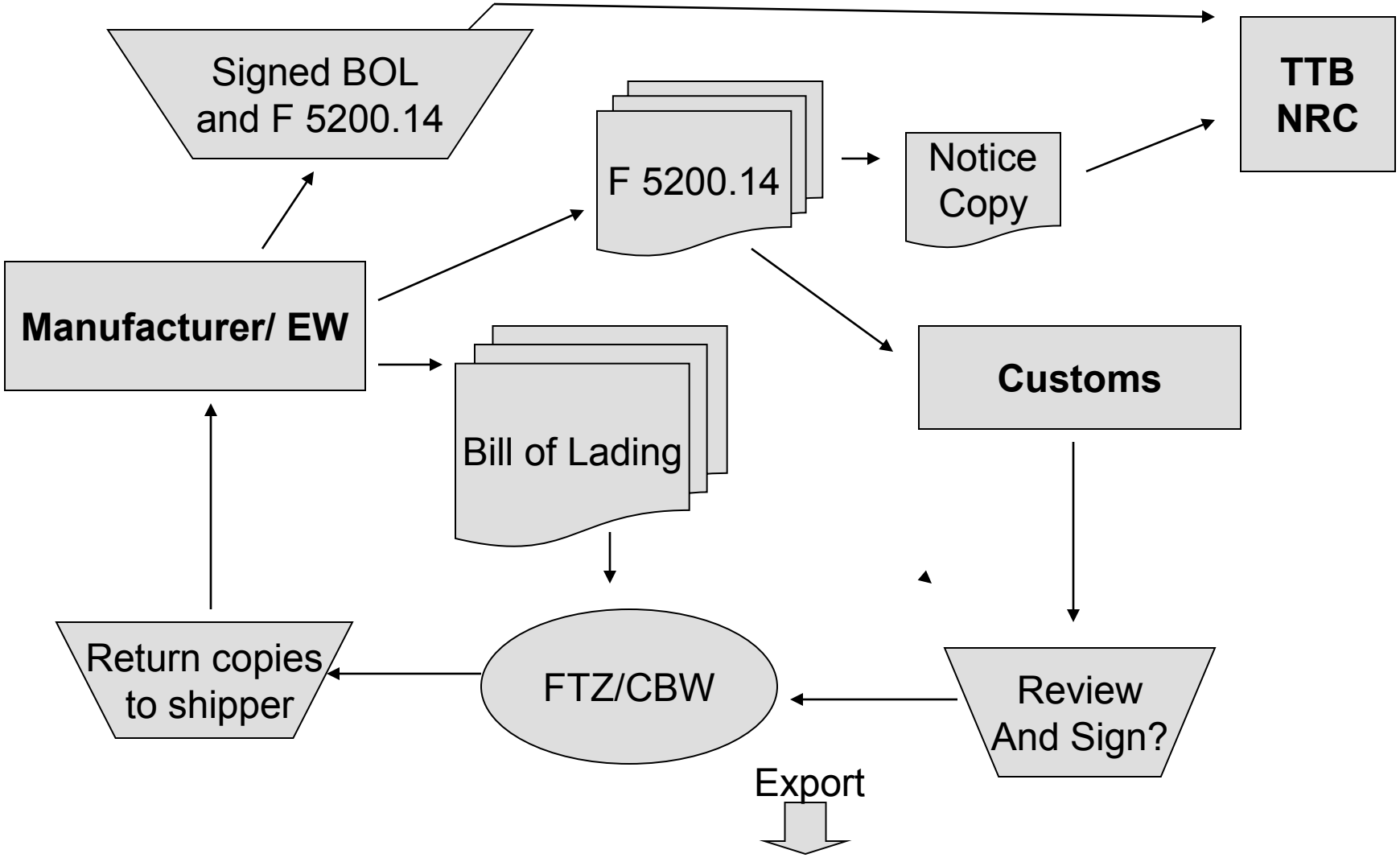
Export Process

(Continued)



Export Process

(Continued)



Export Process — Summary

- Export process, though documentation may vary somewhat, is essentially the same for each type of destination:
  - TTB Form prepared and sent to NRC
  - BOL/other commercial documents prepared
  - Carrier or vessel operator accepts goods
  - Present documents to Customs
  - Proof of exportation (signed TTB F 5200.14 or BOL) sent to NRC

Export Process – Summary (Continued)

- What happens when a third party gets involved?
- Who is responsible for ensuring documents trace product out of U.S.?
- What happens when you cannot prove the product left the United States?
- What happens when products are not marked for export?

Tax Paid Exports — Allowance of Drawback of Tax

— By Manufacturer

Allowance of Drawback of Tax

- 26 U.S.C. 5706 allows drawback of tax on exported tobacco products or cigarette papers and tubes
- 27 CFR Part 44 Subpart K:
  - Requires notice to TTB and inspection of shipment **before** products are exported
  - Requires a bond to be submitted with claim for drawback

Allowance of Drawback of Tax (Continued)

- 27 CFR 44.224 requires shipping containers to bear notice – “Drawback of tax claimed on contents. Sale, consumption, or use in U.S. prohibited.”
- Other package marks, labels, and notices required – 27 CFR part 44

Allowance of Drawback of Tax (Continued)

- Allowed only to the person who paid the tax on such articles and who files claim on TTB F 5620.7, Claim for Drawback of Tax on Tobacco Products, Cigarette Papers and Cigarette Tubes.
- Claim filed in triplicate and within 6 years from date product was exported.
- Otherwise, must comply with the provisions of 27 CFR part 44, subpart K.

Allowance of Drawback of Tax (Continued)

- Claim shall be filed in sufficient time to permit TTB to inspect the articles.
- Claim shall be accompanied by a bond, TTB F 5200.17, Bond – Drawback of Tax on Tobacco Products, Cigarette Papers, or Tubes, in duplicate.
- Bond shall be in an amount equal to or greater than the amount of tax for which drawback is claimed.

Allowance of Drawback of Tax (Continued)

- TTB officer will inspect the articles, supervise attachment of the required label and packing shipping containers, and release the containers to the claimant.
- Upon completion of inspection, claimant will execute Part II on all copies of claim.
- TTB officer will then execute Part III on all copies of claim.

Allowance of Drawback of Tax (Continued)

- TTB officer will retain one copy and furnish two copies to the claimant.
- Part IV (Section A or B), or Part V will then be executed on both claimant's copies.

Allowance of Drawback of Tax (Continued)

- TTB will retain one copy and return two copies to the claimant.
- Claimant executes Part II on both copies and presents them with shipment to the Customs officer or Foreign Trade Zone.
- Part IV (Section A or B), or Part V will then be executed on both claimant's copies upon exportation.

Allowance of Drawback of Tax (Continued)

- The claimant or Customs officer will forward the completed TTB F 5620.7 to the TTB National Revenue Center.
- Claimant also submits a landing certificate or other evidence.
  - Refer to 27 CFR 44.228 and 44. 229.
- Claim is paid and bond is terminated if export evidence is sufficient.

TTB F 5620.7

OMB No. 1513-0026 (01/31/2009)

DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU (TTB)

CLAIM FOR DRAWBACK OF TAX ON TOBACCO PRODUCTS, CIGARETTE PAPERS, AND CIGARETTE TUBES

(See Instructions below)

FOR TTB USE ONLY	
CLAIM NUMBER	DATE OF AUDIT
AUDITED BY	

PART I - REQUEST FOR INSPECTION

1. CHECK ONE ☐ These articles taxpaid under 26 U.S.C. 5701. *(Produced in U.S. or a foreign country)* ☐ These articles taxpaid under 26 U.S.C. 7652(a). *(Produced in Puerto Rico)* ☐ These articles taxpaid under 26 U.S.C. 7652(b). *(Brought in from the U.S. Virgin Islands)*

TO:

Director, National Revenue Center
Alcohol and Tobacco Tax and Trade Bureau
550 Main St, Ste 8002
Cincinnati, Ohio 45202-5215

2. TO BE SHIPPED TO *(Name and Address)*

I request that an officer of the Alcohol and Tobacco Tax and Trade Bureau be assigned to inspect tobacco products, cigarette papers, or cigarette tubes, on which I have paid the tax, and which are to be shipped to a foreign country, Puerto Rico, the U.S. Virgin Islands, or a possession of the United States with the benefit of drawback of tax, as provided for by the regulations in 27 CFR, Part 44.

3. LOCATION WHERE ARTICLES ARE HELD *(Number, street, city or town, State, and ZIP Code)*

4. NAME AND MAILING ADDRESS OF TAXPAYER *(Street address, P.O. Box or R.F.D. number, city, State, and ZIP Code)*

5. SIGNATURE OF TAXPAYER *(If officer of corporation, give title)*	6. TAXPAYER'S EMPLOYER IDENTIFICATION NUMBER	7. DATE

PART II - CLAIM

8. SCHEDULE OF ARTICLES FOR EXPORT

MARKS & NUMBERS ON SHIPPING CONTAINERS (a)	NUMBER OF CONTAINERS (b)	KIND OF ARTICLES (Small cigarettes, Large cigars, Chewing Tobacco, Snuff, etc.) (c)	SALE PRICE PER 1,000[1] (d)	NUMBER OF POUNDS/ OUNCES IN EACH CONTAINER (e)	TOTAL NUMBER OR POUNDS/ OUNCES (f)	TOTAL PRICE[2] Col. (d) x Col. (f) Divided by 1,000 (g)	RATE OF TAX (h)	AMOUNT OF TAX CLAIMED (i)
TOTAL			ROLL-YOUR-OWN TOBACCO					$
			PIPE TOBACCO					
			CIGARS					
			CIGARETTES					
			CHEWING TOBACCO					
			SNUFF					

[1] Complete only for large cigars. Enter the taxable sale price per thousand.
[2] Complete only for large cigars with a sale price of not more than $235.294 per thousand.

Under penalties of perjury, I declare that this claim for drawback of Internal Revenue tax is, to the best of my knowledge and belief, true and accurate; I have paid the tax on the tobacco products, cigarette papers, or cigarette tubes, to be shipped to a foreign country, Puerto Rico, the U.S. Virgin Islands, or a possession of the United States, or to a foreign-trade zone; no other allowance of drawback has been made or claimed on the tobacco products, cigarette papers, or cigarette tubes, or any part thereof; and I am justly entitled to a drawback of tax.

9. SIGNATURE OF CLAIMANT	10. TITLE OR STATUS *(State whether individual owner, member of firm, or if officer of corporation, and give title)*	11. DATE

TTB F 5620.7 (Continued)

PART III - TTB OFFICER'S REPORT OF INSPECTION *(Continued)*

12. SIGNATURE OF TTB OFFICER	13. TITLE	14. DATE

PART IV - CUSTOMS CERTIFICATE

SECTION A - CUSTOMS CERTIFICATE OF RECEIPT IN FOREIGN-TRADE ZONE

Except as indicated below all the containers of articles described in Part II, Item 8, were received intact in a foreign-trade zone for storage pending subsequent shipment to a foreign country, Puerto Rico, the U.S. Virgin Islands, or a possession of the United States.

15. FOREIGN-TRADE ZONE LOCATION	16. DATE RECEIVED

17. DISCREPANCIES *(if none, so state)*

18. SIGNATURE OF CUSTOMS OFFICER	19. TITLE

SECTION B - CUSTOMS CERTIFICATE OF LADING AND EXPORT

The articles described in Part II, Item 8, except as indicated in Item 22, were laden and the vessel cleared or departed the port as shown below:

20. IDENTITY OF CARRIER ON WHICH LADEN	21. DATE OF LADING

22. DISCREPANCIES *(if none, so state)*	23. SIGNATURE OF CUSTOMS OFFICER	24. TITLE

25. DATE CLEARED OR DEPARTED	26. SIGNATURE OF CUSTOMS OFFICER	27. TITLE

PART V - POST OFFICE CERTIFICATE

The shipping containers described in Part II, item 8, were placed in the mail under my supervision, addressed as indicated in Part I, item 2, and there was stamped or written on each shipping container a waiver signed by the exporter of his/her right to withdraw such container from the mail.	28. U.S. POSTAL SERVICE ENDORSEMENT *(Include date of mailing)*

INSTRUCTIONS

CLAIMANT - The claimant must prepare Part I in connection with each claim for drawback of tax paid on tobacco products, cigarette papers, or cigarette tubes, and forward three copies of the executed forms to the Director, National Revenue Center, Alcohol and Tobacco Tax and Trade Bureau, 550 Main St, Ste 8002, Cincinnati, OH 45202-5215. This form must be accompanied by a bond on TTB F 5200.17.

A TTB officer will inspect the articles, supervise the attachment of the required label on the packages, supervise the packing in shipping containers, and release the shipping containers to the claimant. The claimant must then execute Part II on all copies of the form and return them to the TTB officer who will execute Part III on all copies, retain one copy, and furnish two copies to the claimant.

TTB F 5620.7 (Continued)

DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
BOND-DRAWBACK OF TAX ON TOBACCO PRODUCTS, CIGARETTE PAPERS, OR TUBES
(See Instructions on Page 2.)

1. AMOUNT OF BOND

2. PRINCIPAL

3. *ADDRESS (Number, Street, City, State, ZIP Code)*

4. NAME OF SURETY

5. LOCATION OF PRODUCTS *(Number, Street, City, State, ZIP Code)*

KNOW ALL MEN BY THESE PRESENTS, That we, the above-named principal and surety, are held and firmly bound unto the United States of America in the above-named amount, lawful money of the United States, for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Whereas, the said principal makes claim, as identified below, for allowance of drawback of Internal Revenue tax paid on tobacco products, cigarette papers, or cigarette tubes, subject to drawback of tax under Title 26 United States Code.

IDENTIFICATION OF CLAIM

AMOUNT	DATE	LOCATION OF DIRECTOR, NATIONAL REVENUE CENTER, ALCOHOL AND TOBACCO TAX AND TRADE BUREAU, WITH WHOM FILED	KIND OF ARTICLES	TO BE SHIPPED TO *(Name and Address)*

NOW, THEREFORE, if the said articles or any part thereof, be not relanded at any port or place within the United States, and if the claimant or his legal representative must produce, as required by the applicable regulations, evidence satisfactory to the Director, National Revenue Center that the said articles have been landed at some port without the jurisdiction of the Internal Revenue laws of the United States, or that after clearance from the United States the same were lost (otherwise than by theft), then this obligation must be void; otherwise, it must remain in full force and effect.

Witness our hands and seals this_____ day of _____, 20 _____.
Signed, sealed, and delivered in the presence of-

_____ _____(SEAL)

_____ _____(SEAL)

_____ _____(SEAL)

_____ _____(SEAL)

Proof of Exportation

Proof of Exportation

- Tracking of shipment to port
- Handling before lading
- Consolidation issues
- Forwarder issues

- Export Bill of Lading:
  - Ocean BOL
  - Through BOL

Proof of Exportation
27 CFR Part 44

- Customs Certifications
- Bills of Lading
- Certificate of Receipt
- Certificate by Exporting Carrier
- Receipt by Armed Forces
- Alternative combinations – see Industry Circulars

Other Requirements

Markings

- **26 U.S.C. 5704** – Ineligible for tax exemption if not marked as required for export
- **27 CFR 44.181 — 44.187** (both untaxed and taxpaid exports):
  - Package
  - Mark
  - Label or notice
  - Tax class — cigars
  - Shipping containers

Records

- 27 CFR 40.181, 40.182, and 44.142:
  - General requirements for manufacturers and export warehouse proprietors
- 27 CFR 40.183(f) – Tobacco products removed in bond for export

Reporting

- Each operational report submitted to TTB has lines for reporting exports:
  - TTB F 5210.5 Tobacco Manufacturer
  - TTB F 5220.4 Export Warehouse Proprietor
- Total on export lines must equal amounts shown on transaction forms for report period

What We Learned Today

- Defined an “export”
- Identified applicable laws and regulations
- Reviewed untaxed exports
- Reviewed taxed exports
- Discussed “Proof of Exportation”
- Reviewed other requirements

Contact Information

- NRC Contacts:
  - exports@ttb.gov
  - Your Tax Services Specialist – call us at 1-877-882-3277
  - Jim McCoy – (513) 684-7132 or [redacted]

Practical Exercise

Exporting Tobacco Products