

INDUSTRY CIRCULAR

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



WASHINGTON 25, D. C.

Industry Circular No. 59-3

January 27, 1959

CLAIMS UNDER SUBPART B OF 26 CFR PART 296

**Manufacturers and importers of tobacco products
and cigarette papers and tubes, proprietors
of customs bonded cigar manufacturing
warehouses, class 6, and others concerned:**

Purpose. The purpose of this industry circular is to suggest procedure for the execution of claims and for the protection of your right to payment in respect to claims under subpart B of 26 CFR Part 296, as added by Treasury Decision 6325, where the joining in a claim by other persons, as required by regulations, could not be accomplished.

Background. Subpart B of 26 CFR Part 296 implements section 209 of the Excise Tax Technical Changes Act of 1958 (Public Law 85-859), relating to claims in respect of taxes paid or determined and customs duties paid on tobacco products and cigarette papers and tubes removed, which were lost, rendered unmarketable, or condemned by reason of a "major disaster" occurring after December 31, 1954, and not later than September 2, 1958. Such subpart provides that in any instance where the tobacco products or cigarette papers or tubes were replaced or where credit was given, the person replacing or giving credit and the recipient shall join in the claim.

Execution of claims. To avoid confusion in the preparation and distribution of checks, it is desirable that only one name be shown on the Form 843 on the line for the name of the taxpayer, except where the claim is being filed by a partnership. The name appearing on this line should be that of the person or company bearing the ultimate burden of the replacement or credit given.

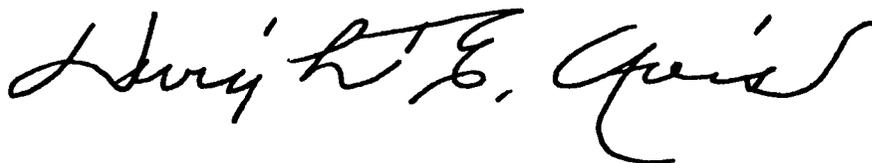
Insofar as signing the claim is concerned, there is room for variation in procedure, depending on the specific facts in the case. For example, where a claim is filed by a wholesale distributor, in connection with a few possessors or recipients, there would seem to be little reason why all concerned could not join in the claim by signing the Form 843, provided the status of each signer is made clear. However, in those cases where the claim is filed by the taxpayer, with many possessors joining in the claim, it may be advisable to have such persons join in the claim by affidavit. This would require that each joiner submit an affidavit, to be attached to and made part of the claim, in which he would set forth among other things that he is joining in the claim with the person actually submitting such claim. Either of the two methods outlined above is satisfactory.

It is important that only the name of the individual, partnership, or corporation to whom payment is to be made is set forth clearly in the line on Form 843 which calls for the name of the taxpayer, and that persons joining in the claim sign the Form 843 or join in by means of an affidavit so stating, depending on which method is more convenient. Such affidavit should also make it clear that those joining will not file another claim covering the same tobacco products or cigarette papers or tubes, since it is possible that a possessor or recipient may have to join in more than one claim.

To establish the extent of the loss and to prevent the allowance of more than one claim covering the same tobacco products or cigarette papers or tubes, or any part thereof, supporting data clearly identifying the tobacco products or cigarette papers or tubes should accompany each claim.

Procedure where person expected to join in claim does not do so. This office is now considering and will propose an amendment of subpart B of 26 CFR Part 296 to permit assistant regional commissioners to consider for allowance claims when there is satisfactory evidence showing that the joining in a claim by a recipient of replacement or credit could not be accomplished. If approved by the Secretary of the Treasury, this amendment would afford relief in the instances indicated. The 6-month statutory period for filing these claims might expire before the proposed amendment can be processed. Accordingly, to be entitled to relief under the proposed amendment, if approved, the claimant should perfect his claim to the greatest possible extent and file the claim on or before March 2, 1959, when such period of limitation expires. Such claims should include a statement regarding the identity of the person (or persons) not joining in the claim, the reason for his not joining in, his last known address, and the extent and results of efforts made to obtain compliance. Such claims particularly must set forth all information obtained which was pertinent to the possessor's indemnification by insurance or otherwise against loss of the tax, or tax and customs duty, as the case may be.

Inquiries. Inquiries regarding this industry circular should refer to its number and be addressed to the office of your assistant regional commissioner (alcohol and tobacco tax).



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