

How to Avoid Common Pitfalls When Filing Permit Applications

By Vicki McCoy (513)648-7118

Although ATF strives for excellence in customer service, avoidable delays occur when application paperwork is received with errors and omissions. These unintentional errors most often appear on applications filed for new ATF permits – ATF Forms 5100.24 and 5230.4. The National Revenue Center offers these hints on what our customers can do to avoid the most common mistakes made on these forms:

ATF Form 5100.24, “Application For Basic Permit Under The Federal Administration Act”.

ATF Form 5230.4, “Application For Permit Under 26 USC Chapter 52 Importer of Tobacco Products”.

- The applications must include **complete** information on all persons involved with or who have a financial interest in the applicant’s business.
- Owner/investor information must include the type of interest in the business, for example: any individual with a financial interest in the business, sole owner, partners, LLC member/manager, corporate officers and directors, and any person with more than 10% voting stock/interest in the company if applicable. The individual’s name, title, how much stock/interest is held, dollar amount of the investment and the name, city and state of the financial institution for the source of funds invested must be specified. Other information such as date and place of birth, social security number and residency must be complete and accurate.
- If any investment comes from a “gift”, such as from a father to son, all of the information of the person giving the gift must be shown on the application, along with the name, Social Security Number, date and place of birth, citizenship, gender; other names used and residence over the last five years. Please specify whether or not the gift giver will have any stock or other interest in the company.
- A background check will be conducted on all individuals who have given gifts that are invested in the new business.

The National Revenue Center is available with advice on how to complete permit applications and who must be listed on them. Please contact them at 800-398-2282 (513-644-3337) (e-mail: natlrevctr@cinc.atf.treas.gov). Written correspondence should be sent to: ATF National Revenue Center, 8002 Federal Office Building, 550 Main Street, Cincinnati, OH 45202.

◆ Regulations Corner ◆

Recodification of Part 251, Importation of Distilled Spirits, Wines, and Beer

By Jennifer Berry (716)434-8039

ATF published Treasury Decision (T.D.) ATF-479 in the Federal Register on May 8, 2002. This Final Rule recodifies 27 CFR Part 251, Importation of Distilled Spirits, Wines, and Beer. As part of continuing efforts to reorganize the part numbering system and to replace Internal Revenue Service numbers with ATF numbers, we are redesigning Part 251 and Part 27. This T.D. makes no substantive changes to the import regulations.

The Regulations Division plans to update these regulations in a later rulemaking project. The recodification is effective May 8, 2002 ◆

Delegation of Authority for Part 44

By Robert P. Ruhf (202)927-8210

On May 8, 2002, the Federal Register published a final rule and a related ATF delegation order that concern ATF authorities for Part 44 of Title 27 of the Code of Federal Regulations. Part 44 contains regulations that govern the export of tobacco

products and cigarette papers and tubes without payment of tax or drawback of tax.

This final rule places these authorities with the “appropriate ATF officer.” It also requires people to file documents with the “appropriate ATF officer” or as instructed by an ATF form required by 27 CFR Part 44.

The related delegation order, ATF Order 1130.31, was published at the same time as the final rule and is available to the public. ♦

Acceptable Proof Of Exportation

Exporters Can Avoid Tax Liabilities With Proper Documentation

By Wholesaler/Importer Units (513)684-3337

We would like to remind exporters of tobacco products, alcoholic beverages and specially denatured alcohol, that in order to avoid tax liability, you must provide ATF with acceptable proof of exportation.

Here’s how to avoid problems later and make sure the proof of exportation you submit to ATF will pass the auditing done at ATF’s National Revenue Center:

- Your **proof** of exportation must be complete, accurate and contain all information required by Title 27 Code of Federal Regulations, Part 252 (exportation of liquors) and/or Part 290 (exportation of tobacco products, cigarette papers and tubes).
- Export documents must be **verifiable** and come from the originator of the transaction. That is, proofs are not accepted from subsidiaries. You must obtain US Customs certification when required.
- Make sure the **quantity recorded** is in the correct units, e.g., the certification of quantity of cigarettes received in export warehouse should reflect the number of individual units (e.g. thousands of cigarettes) – not cases or packs.
- Proof of export documents must be **credible**, i.e., created in the ordinary course of business at the time of the transaction.
- Exporters must be able to **trace** a Bill of Lading (BOL) back to the merchandise shipped. Quantities shown on the BOL should match those reflected on the appropriate export form (e.g., 5200.14/2149 – tobacco, 5100.11 – alcoholic beverages).
- The **certification** of export must include the title of the person signing it. The date and quantity should be entered, as well as a reference number for the recipient

(e.g., permit number, foreign trade zone or custom’s bonded warehouse’s number).

- A **difference** in the amount reported exported, and the amount for which proof has been provided, can lead to a notice of proposed tax assessment to the exporter.
- ATF will **reject** the export form where the **purpose** of removal or withdrawal is not indicated, even if you furnish Custom’s or other certification. ■

In some cases, we may require additional information or documentation. For more information on what types of documents we will accept as proof for each type of export shipment, please visit our website at: www.atf.treas.gov/pub/index.htm#circulars

Refer to Industry Circular 2002-2 (July 6, 2000). ■

Or, contact the National Revenue Center at 800-398-2282 (513-684-3334) (e-mail: natrevctr@cinc.atf.treas.gov).

Tobacco Industry Comments Requested

By Robert Ruhf, (202)927-8200

We have asked the tobacco industry to comment on proposed revisions of five ATF tobacco forms. One of the proposed revisions combines the reports completed by manufacturers of tobacco products or of cigarette papers and tubes. Another revises the report completed by proprietors of export warehouses (link to website). Two of the ATF forms revise the applications that we require tobacco product manufacturers and proprietors of export warehouse to submit.

Through these proposed revisions, we hope to achieve the following goals:

- Increase the accuracy of tobacco industry submissions. ATF has improved the detail and the language of the instructions and the forms.
- Reduce changes and amendments to comply with requirements through complete instructions on the forms.
- Reduce to refer separate documents about how to complete the forms (e.g., the regulations).

For more information about our requests, go to the ATF website at <http://www.atf.treas.gov/forms/notices.htm>. To get copies of the proposed ATF forms, contact the Regulations Division at 202-927-8210. Tobacco industry comments should be sent by the end of July 2002.

Questions or suggestions relating to the Alcohol & Tobacco Newsletter should be directed to the Editor by fax at (202) 927-5611 or by mail at the following address: Bureau of ATF, 650 Massachusetts Avenue, NW, Room 8110, Attention: Joette R. Brown, Editor, Alcohol & Tobacco Newsletter, Washington, D.C. 20226.