

**DEPARTMENT OF THE TREASURY****Bureau of Alcohol, Tobacco and Firearms**

27 CFR Parts 19, 24, 25, 53, 70, 250, 270, 275 and 285

[T.D. ATF-365]

RIN 1512-AB39

**Implementation of Public Law 103-465, Section 712, Time for Payment and Deposits of Certain Excise Taxes (No. 277)**

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

**ACTION:** Temporary rule (Treasury decision).

**SUMMARY:** This temporary rule implements section 712 of Public Law 103-465, "The Uruguay Round Agreements Act." The new law changed payment and deposit requirements for certain excise taxes. These regulations implement the law by incorporating the accelerated payment period for taxes or deposits due on distilled spirits, wine, beer, tobacco products and cigarette papers and tubes and firearms and ammunition for the period September 16-September 26 (or September 25, for non-electronic fund transfer (EFT) taxpayers). Payment of taxes for this period is due on September 29 (or September 28, for non EFT taxpayers). This temporary rule also amends regulations in 27 CFR Part 53, relating to the requirements for making deposits of firearms and ammunition excise taxes, by simplifying existing deposit rules in order to maintain consistency with other manufacturers excise taxes administered by the Internal Revenue Service (IRS). Finally, the temporary rule adds provisions relating to records and variances and makes other technical amendments to the regulations in 27 CFR Part 53. In the Proposed Rules section of this **Federal Register**, ATF is also issuing a notice of proposed rulemaking inviting comments on the temporary rule for a 90-day period following the publication of this temporary rule.

**EFFECTIVE DATES:** The temporary regulations are effective January 1, 1995, except for section 53.159, which is effective July 1, 1995.

**ADDRESSES:** Send written comments to: Chief, Alcohol and Tobacco Programs Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091-0221.

**FOR FURTHER INFORMATION CONTACT:** Tamara Light, Alcohol and Tobacco

Programs Division, 650 Massachusetts Avenue, NW, Washington, DC 20226 (202) 927-8210.

**SUPPLEMENTARY INFORMATION:**

**Background**

On December 8, 1994, P.L. 103-465 (108 Stat. 4809) was enacted, amending the law relating to the payment and deposit of certain excise taxes. Federal excise taxes are imposed on firearms and ammunition, alcoholic beverages, and tobacco products. For the majority of these taxpayers, excise taxes must be remitted to ATF on a semimonthly basis within a 9-14 day period after the end of the semimonthly period. In order to receive these taxes during the fiscal year to which they relate, rather than in the subsequent fiscal year, P.L. 103-465 accelerates the due date for payment or deposit of such taxes for the second semimonthly period of September.

**Alcohol and Tobacco Excise Taxes**

With certain exceptions, the taxes on distilled spirits, wine, beer, tobacco products, and cigarette papers and tubes, are paid on the basis of a semimonthly return. The semimonthly periods covered by the tax return are from the 1st day through the 15th day of each month and from the 16th day of each month to the last day of that month. The return must be filed and the taxpayment must be made no later than the 14th day after the last day of each semimonthly period.

The amendments to the regulations covering distilled spirits, wine, beer, tobacco products, and cigarette papers and tubes establish the accelerated period required by P.L. 103-465 by dividing the second semimonthly period in September into two payment periods, beginning from the 16th day through the 26th day, and from the 27th day through the 30th day. The return and taxpayment for the period September 16-26 are due on or before September 29. The return and taxpayment for the period September 27-30 are due on or before October 14. The accelerated payment period does not apply to wine excise taxes that are remitted on an annual basis.

**Safe Harbor Rule**

The amendments to the law specifically provide that, in the case of taxes on distilled spirits, wine, beer, tobacco products, and cigarette papers and tubes, the accelerated payment requirement will be met if the taxpayer pays not later than September 29 an amount equal to 11/15th (73.3 percent) of the taxpayer's liability for the first semimonthly period in September. This "safe harbor" provision is implemented

in the regulations at §§ 19.523(c)(2), 24.271(c)(2), 25.164a(b), 250.112(d), 270.164(b), 275.114(b)(3) and 285.25(g)(3).

**Special Rule for Taxpayers Not Required to Remit Taxes by Electronic Fund Transfer**

The law provides special rules for taxpayers who are not required to remit taxes by electronic fund transfer for the calendar year. For those taxpayers, payment of taxes for the period September 16-September 25 are due on or before September 28. The regulations implementing this requirement provide that the requirement to pay tax for this period is satisfied if the taxpayer pays an amount equal to 2/3 (66.7 percent) of the taxpayer's liability for the first semimonthly period in September.

**Last Day for Making Payment**

The amendments to the law revise, in part, the special rules for due dates falling on, Saturday, Sunday, or legal holidays as defined in 26 U.S.C. 7503. The amendment relating to due dates falling on Sunday applies only to the accelerated return period in September. If the required due date for the accelerated payment period falls on a legal holiday or Saturday, taxpayment is due on the immediately preceding day, and as amended, if the required due date for the accelerated payment period falls on a Sunday, taxpayment is due on the following Monday. These amendments are reflected in the regulations at §§ 19.523(c)(3), 24.271(c)(3), 25.164a(c), 70.306(a), 250.112(d), 270.164(c), 275.114(b)(4), and 285.25(g)(4).

**Firearms and Ammunition Excise Taxes**

Current regulations require taxpayers who incur more than \$100 in tax liability for any calendar month (except the last month of the quarter) to make monthly deposits on ATF Form 5300.27, Federal Firearms and Ammunition Excise Tax Deposits. Monthly deposits are due by the last day of the month following the month in which the \$100 liability was incurred.

Taxpayers who incur more than \$2,000 of tax liability for any calendar month in the preceding calendar quarter are required to make semimonthly deposits for the current calendar quarter on ATF Form 5300.27. Deposits of tax for a semimonthly period generally must equal the amount of tax liability incurred during that semimonthly period. However, current regulations provide four exceptions to this rule. Taxpayers may use one of these exceptions in computing the amount of