

tax required to be deposited. Each of the four exceptions requires the taxpayer to estimate and deposit an amount of tax based on certain percentages and requirements prescribed by the particular exception. Semimonthly deposits are due by the ninth day of the semimonthly period following the semimonthly period in which the tax was incurred.

Further, semimonthly depositors must deposit any underpayment of tax for the first and second month of the quarter by the ninth day of the second month following the month in which the tax liability was incurred. Any underpayment of tax for the third month of the quarter which exceeds \$100 must be deposited by the last day of the first month following the end of the quarter.

#### **P.L. 103-465 Amendments to the Requirement for Making Deposits**

In the case of firearms and ammunition excise taxes required to be remitted on a semimonthly basis, P.L. 103-465 requires an accelerated payment for the period September 16-September 25. The due date for deposit of taxes incurred during this period is September 28. These dates apply because the firearms and ammunition excise taxes are not required to be made by electronic fund transfer. Taxes incurred for the remainder of the semimonthly period, September 26-30, are due on October 9. The amendments to the law enact a special rule where the due date of the deposit falls on Saturday or Sunday. If the required due date for the accelerated payment period falls on a Saturday, taxpayment is due on the preceding Friday. If the required due date for the accelerated payment period falls on a Sunday, taxpayment is due on the following Monday. For due dates falling on a legal holiday, the general rule under 26 U.S.C. 7503 continues to apply, and the deposit is due on the day succeeding the legal holiday.

#### **Simplification of Deposit Rule**

This temporary rule modifies current regulations in 27 CFR Part 53 which provide a number of different methods for determining whether a taxpayer has complied with the semimonthly deposit rules. This temporary rule reduces the number of those rules, thereby simplifying the deposit system. The rule also complies with the congressional mandate that ATF modify existing regulatory safe harbors to reflect the accelerated taxpayment period. The legislative history for P.L. 103-465 states that both Congress and the Administration "expected that the Treasury Department will modify existing safe harbors relating to excise

deposits to reflect these changes." See, H.R. Rep. No. 103-826 (I), 103rd Cong., 2nd Sess. 177 (1984), and "The Uruguay Round Agreements Act Statement of Administrative Action," page 1056. This simplification of the deposit rules enables taxpayers to use clear and concise safe harbors in determining their deposits required for the accelerated period.

The amendments to the regulations eliminate the current monthly and semimonthly deposit rules in order to have a single deposit rule apply to all persons required to make deposits of tax. The new regulation at § 53.159 requires semimonthly deposits of tax from all persons required to file returns. ATF believes that by having one deposit rule apply to all persons, the system will be easier for taxpayers to understand and for ATF to administer.

Generally, under this rule, the amount of tax deposited for a semimonthly period must equal the amount of tax liability incurred during that period. However, the regulations provide the following exceptions to this rule.

#### **Special Rule for One-time or Occasional Filings**

A special rule is provided for one-time or occasional filings of returns. A person may file a one-time or occasional return reporting liability with respect to taxable transactions in a calendar quarter if the person reporting tax does not engage in any activity with respect to which tax is reportable on the return in the course of a trade or business.

In addition, no deposit is required in the case of tax reported on a one-time or occasional filing. Instead, the tax reported on a one-time or occasional filing is paid with the quarterly return.

#### **De Minimis Exception to the Deposit Requirement**

The deposit requirement provided by these amendments to the regulations will not apply if the total tax liability for the quarter does not exceed \$2,000. Instead, any tax incurred for the return period will be paid with the quarterly return.

#### **Safe Harbor Rule**

A general safe harbor rule is provided so that taxpayers required to pay firearms and ammunition excise taxes are not required to determine their actual tax liability during each semimonthly period in a quarter. The safe harbor rule allows taxpayers to deposit an estimated amount of tax based on prior liability, delaying calculation of their actual liability until the quarterly return is due. The adoption of this general safe harbor rule

facilitates the promulgation of the modified rule, discussed below, for the accelerated deposit period in September.

The safe harbor rule applies to taxpayers who filed ATF Form 5300.26, Firearms and Ammunition Excise Tax Return, reporting tax for the second calendar quarter preceding the current calendar quarter (the look-back quarter). Such persons are considered to have met the semimonthly deposit requirement for the current quarter if (1) the deposit for each semimonthly period in the current quarter is not less than  $\frac{1}{6}$  of the total tax liability reported on Form 5300.26 for the look-back quarter, (2) each deposit is made on time, and (3) any underpayment for the current quarter is paid by the due date of the return on which the tax would ordinarily be reported. All three requirements must be satisfied in order for the safe harbor rule to apply.

#### **Modification of Safe Harbor Rule Based on Look-back Quarter Liability for the Month of September**

Under P.L. 103-465, deposits for the period September 16-25 are due on September 28. The deposit for the remaining 5 days, September 26-30, is due on October 9, the 9th day of the semimonthly period following the semimonthly period for which the tax is reportable. A modified safe harbor rule applies to the third calendar quarter and is met where deposit of taxes for the periods September 16-25 and September 26-30 is not less than  $\frac{1}{12}$  (8.3 percent) of the tax liability reported for the look-back quarter.

#### **Modification of Safe Harbor Rule Based on Look-back Quarter Liability to Adjust for Tax Rate Increases**

Under the safe harbor rule, an increase in the rate of tax would generally not be reflected in deposits made by persons using the look-back quarter until the second quarter after the quarter for which the increased rate is effective (although the increased rate would be reflected in catch-up payments for each quarter). Therefore, the safe harbor deposit amounts for the first and second quarters beginning on or after the effective date of a tax rate increase are required to be calculated as if the new tax rate had been in effect during the look-back quarter. Thus, persons using the safe harbor rule in these quarters must deposit  $\frac{1}{6}$  of the amount of liability for which they would have been liable in the look-back quarter had the higher rate applied at that time. This rule would ensure that the statutory effective date of tax rate