Branch, Bureau of Alcohol, Tobacco and Firearms.

Therefore, pursuant to the authority set forth in 27 U.S.C. 205(e), ATF is further postponing the compliance date with respect to the citric acid limitation set forth in 27 CFR 5.23(a)(3)(ii) by T.D. ATF-306. The compliance date is September 3, 1993.

Signed August 10, 1992.

**Stephen E. Higgins,**
*Director.*

Approved: August 14, 1992.

**Peter K. Nunez,**
*Assistant Secretary (Enforcement).*

[FR Doc. 92-21387 Filed 9-2-92; 8:45 am]
BILLING CODE 4810-31-M

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## 27 CFR Part 53

**[T.D. ATF-330]**

## Firearms and Ammunition Excise Taxes (No. 92-D-006)

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

**ACTION:** Treasury decision, Final rule.

**SUMMARY:** This final rule amends regulations with respect to the method of payment and filing of tax returns for the payment of firearms and ammunition excise taxes. ATF is establishing a voluntary electronic payment system that will allow taxpayers, at their option, to make firearms and ammunition excise taxpayments by electronic fund transfer. This rule will also liberalize the current tax return filing requirement by eliminating quarterly tax returns when no liability is incurred.

**EFFECTIVE DATE:** October 1, 1992.

**FOR FURTHER INFORMATION CONTACT:** Tamara Light, Specialist, Revenue Programs Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091-0221, (202) 927-8210.

**SUPPLEMENTARY INFORMATION:**

### Background

Pursuant to 26 U.S.C. 4181, a tax is imposed on the sale by the manufacturer, importer or producer of pistols, revolvers, firearms (other than pistols and revolvers), shells, and cartridges. The tax is 10 percent of the sale price for pistols and revolvers, 11 percent of the sale price for firearms (other than pistols and revolvers) and 11 percent of the sale price for shells and cartridges. Regulations in 27 CFR part 53 require that taxpayers incurring a tax liability on the sale or use of firearms and ammunition file excise tax returns quarterly on ATF Form 5300.26, Federal Firearms and Ammunition Excise Tax Return. In addition, depending on the volume of taxable sales made during the return period, taxpayers are required to make tax deposits on a monthly or semimonthly basis on ATF Form 5300.27, Federal Firearms and Ammunition Excise Tax Deposit.

The existing regulations require that once taxpayers incur liability for tax, they must continue to file returns, whether or not liability was incurred for the return period, until the taxpayers have ceased operations. This final rule amends this requirement so that taxpayers will be required to file a return for a particular calendar quarter only if they incur tax liability during that return period. In addition, taxpayers who incur no tax liability during the calendar year will only be required to file an annual return. Consequently, the paperwork burden for occasional taxpayers will be greatly reduced.

Additionally, ATF has received requests from taxpayers to allow for the payment of firearms and ammunition excise taxes by electronic fund transfer (EFT). ATF recognizes that EFT is an accurate, efficient and convenient method for transferring money. This final rule establishes regulations which will provide taxpayers with the opportunity to remit payments to ATF by EFT. This amendment will allow taxpayers, upon notification to the regional director (compliance), to utilize this method to remit firearms and ammunition excise taxes due with semimonthly and monthly tax deposits and quarterly tax returns. The election to remit firearms and ammunition excise taxes by EFT must be made at the beginning of the calendar quarter preceding the calendar quarter in which the taxpayer will begin remitting payments by EFT. Once a taxpayer elects to remit firearms and ammunition excise taxes by EFT, the taxpayer must continue to make payments in this manner for at least four consecutive calendar quarters or until the taxpayer files a final return.

ATF considered allowing taxpayers to make elections concerning the method of payment on a more frequent basis. However, it was determined that this would cause administrative difficulties in processing the payments. Although payment by EFT will be voluntary, taxpayers are subject to the same filing and deposit requirements as prescribed for all other firearms and ammunition excise taxpayers. ATF will provide guidance to taxpayers who elect to remit taxes by EFT by issuing a procedure on how to prepare deposits, returns and EFT remittances.

### Executive Order 12291

In compliance with Executive Order 12291, 46 FR 13193 (1981), ATF has determined that this rule is not a "major rule" since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

### Administrative Procedures Act

Because this final rule merely establishes an optional method of taxpayment and liberalizes the existing requirements for filing tax returns, it is hereby found to be unnecessary to issue this Treasury decision with notice and public procedure under 5 U.S.C. 553(b).

### Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis are not applicable to this final rule because the agency was not required to publish a general notice of proposed rulemaking under 5 U.S.C. 553 or any other law. A copy of this final rule has been submitted to the Administrator of the Small Business Administration for comment on the impact of such regulation on small business, pursuant to 26 U.S.C. 7805(f).

### Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Public Law 96-511, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because there are no new reporting or recordkeeping requirements.

### Drafting Information

The principal author of this document is Tamara Light, ATF Specialist, Revenue Programs Division, Bureau of Alcohol, Tobacco and Firearms.

### List of Subjects in 27 CFR Part 53

Administrative practice and procedure, Arms and munitions, Authority delegations, Exports, Imports, Penalties, Reporting and recordkeeping requirements.

**Authority and Issuance**

Accordingly, 27 CFR part 53, entitled "Manufacturers Excise Taxes—Firearms and Ammunition" is amended as follows:

**PART 53—[AMENDED]**

1. The authority citation for part 53 continues to read as follows:

Authority: 26 U.S.C. 4181, 4182, 4216–4219, 4221–4223, 4225, 6001, 6011, 6020, 6021, 6061, 6071, 6081, 6091, 6101–6104, 6109, 6151, 6155, 6161, 6301–6303, 6311, 6402, 6404, 6416.

2. Section 53.11 is amended by adding in alphabetical order the definition of the terms *"Calendar year, Electronic fund transfer (EFT), Treasury Account, and Financial institution"*, to read as follows:

**§ 53.11 Meaning of terms.**

* * * * *

*Calendar year.* The period which begins January 1 and ends on the following December 31.

* * * * *

*Electronic fund transfer (EFT).* Any transfer of funds effected by a taxpayer's financial institution, either directly or through a correspondent banking relationship, via the Federal Reserve Communications System (FRCS) or Fedwire to the Treasury Account at the Federal Reserve Bank.

* * * * *

*Financial institution.* A bank or other financial institution, whether or not a member of the Federal Reserve System, which has access to the Federal Reserve Communications Systems (FRCS) or Fedwire. The "FRCS" or "Fedwire" is a communications network that allows Federal Reserve System member financial institutions to effect a transfer of funds for their customers (or other financial institutions) to the Treasury Account at the Federal Reserve Bank.

* * * * *

*Treasury Account.* The Department of Treasury's General Account at the Federal Reserve Bank of New York.

* * * * *

3. Paragraph (a) of § 53.151 is revised to read as follows:

**§ 53.151 Returns.**

(a) *In general.* (1) Liability for tax imposed under chapter 32 of the Code shall be reported on ATF Form 5300.26, Federal Firearms and Ammunition Excise Tax Return. Except as provided in paragraphs (a)(2) and (b) of this section, a return on Form 5300.26 shall be filed for a period of one calendar quarter.

(2) *Return periods after September 30, 1992.* For return periods after September 30, 1992, every person required to make a return on ATF Form 5300.26 who does not incur any firearms and ammunition excise tax liability in a given calendar quarter shall not be required to file a return on ATF Form 5300.26 for that calendar quarter. Every person required to make a return on ATF Form 5300.26 who does not incur any firearms and ammunition excise tax liability for the entire calendar year and who has not filed a final return in accordance with § 53.152 shall file an annual return on ATF Form 5300.26.

(3) *Return periods prior to October 1, 1992.* For return periods prior to October 1, 1992, every person required to make a return on ATF Form 5300.26 shall make a return for each calendar quarter (whether or not liability was incurred for any tax reportable on the return for the return period) until the person has filed a final return in accordance with § 53.152.

(4) *Forms, etc.* Each return required under the regulations in this part, together with any prescribed copies, records, or supporting data, shall be completed in accordance with the applicable forms, instructions, and regulations.

* * * * *

4. Paragraph (a) of § 53.152 is revised to read as follows:

**§ 53.152 Final returns.**

(a) *In general.* Any person who is required to make a return on ATF Form 5300.26 pursuant to § 53.151 and who in any return period ceases operations in respect of which the person is required to make a return on the form, shall make the return for that return period as a final return. A return made as a final return shall be marked "Final Return" by the person filing the return. A taxpayer who has only temporarily ceased to incur liability for tax required to be reported on ATF Form 5300.26 because of temporary or seasonal suspension of business or for other reasons, shall not make a final return until such operations are permanently ceased.

* * * * *

5. Section 53.153 is amended by revising paragraph (a), by revising the paragraph heading of paragraph (b), and by adding paragraph (b)(3) to read as follows:

**§ 53.153 Time for filing returns.**

(a) *Quarterly returns.* Each return required to be made under § 53.151(a) for a return period of one calendar quarter shall be filed on or before the last day of the first calendar month following the close of the period for which it is made. However, a return may be filed on or before the 10th day of the second calendar month following the close of the period if timely deposits under section 6302(c) of the Code and § 53.157 have been made in full payment of the taxes due for the period. For purposes of the preceding sentence, a deposit which is not required by regulations in respect of the return period may be made on or before the last day of the first calendar month following the close of the period.

(b) *Monthly, semimonthly and annual returns.*

(1) * * *

(2) * * *

(3) *Annual returns.* Each return filed under the provisions of § 53.151(a) for a return period of one calendar year shall be filed not later than the 31st day following the close of the calendar year.

* * * * *

6. Paragraph (b) of § 53.154 is revised to read as follows:

**§ 53.154 Manner of filing returns.**

* * * * *

(b) When the taxpayer sends the return on ATF Form 5300.26 by U.S. Mail, the official postmark of the U.S. Postal Service stamped on the cover in which the return was mailed shall be considered the date of delivery of the return. When the postmark on the cover is illegible, the burden of proving when the postmark was made will be on the taxpayer. When the taxpayer sends the return with or without remittance by registered mail or by certified mail, the date of registry or the date of the postmark on the sender's receipt of certified mail, as the case may be, shall be treated as the date of delivery of the return and, if accompanied, of the remittance.

7. Section 53.157 is amended by revising the section heading and by revising paragraphs (a), (b)(1), (c), (e)(1), and (e)(4) to read as follows:

**§ 53.157 Timeliness of deposits.**

(a) *Monthly deposits.* Except as provided in paragraph (b) of this section, if for any calendar month (other than the last month of a calendar quarter) any person required to file a quarterly excise tax return on ATF Form 5300.26 has a total liability under this part of more than $100 for all excise taxes reportable on that form, the amount of liability for taxes shall be deposited by the person in accordance with the instructions on ATF Form 5300.27 on or before the last day of the month following the calendar month.

(b) *Semimonthly deposits.* (1) If any person required to file an excise tax return on ATF Form 5300.26 for any calendar quarter has a total liability under this part of more than $2,000 for all excise taxes reportable on that form for any calendar month in the preceding calendar quarter, the amount of that liability for taxes under this part for any semimonthly period (as defined in paragraph (d)(1) of this section) in the succeeding calendar quarter shall be deposited by the person in accordance with the instructions on ATF Form 5300.27 on or before the depositary date (as defined in paragraph (d)(2) of this section) applicable to the semimonthly period.

* * * * *

(c) *Deposit of certain excess undeposited amounts.* Notwithstanding paragraphs (a) and (b) of this section, if any person required to file an excise tax return on ATF Form 5300.26 for any calendar quarter beginning after December 31, 1990, has a total liability under this part for all excise taxes reportable on the form for the calendar quarter which exceeds by more than $100 the total amount of taxes deposited by the person pursuant to paragraph (a) or (b) of this section for the calendar quarter, the person shall, on or before the last day of the calendar month following the calendar quarter for which the return is required to be filed, deposit in accordance with the instructions on ATF Form 5300.27 the full amount by which the person's liability for all excise taxes reportable on the return for that calendar quarter exceeds the amount of excise taxes previously deposited by the person for that calendar quarter.

* * * * *

(e) *Depositary forms and procedures*—(1) *In general.* Each remittance of amounts required to be deposited for periods beginning after December 31, 1990 shall be accompanied by an ATF Form 5300.27, Federal Firearms and Ammunition Excise Tax Deposit form, or ATF Form 5300.26, Federal Firearms and Ammunition Excise Tax Return, which shall be prepared in accordance with the applicable instructions. Taxpayers electing to remit deposits by EFT pursuant to § 53.158 shall prepare and submit ATF Form 5300.26 or ATF Form 5300.27 in accordance with the instructions on the form. The timeliness of the deposit will be determined by the date it is received (or is deemed received under section 7502(e) and 26 CFR 301.7502-1) by the lockbox financial institution, or the ATF officer designated on ATF Form 5300.27 or ATF Form 5300.26 accompanying the deposit, or when made by electronic fund transfer, the Treasury Account. Amounts deposited pursuant to this paragraph shall be considered to be paid on the last day prescribed for filing the return in respect of the tax (determined without regard to any extension of time for filing the returns), or at the time deposited, whichever is later.

(2) * * *

(3) * * *

(4) *Procurement of prescribed forms.* Copies of the Federal Firearms and Ammunition Excise Tax Deposit form will be furnished, so far as possible, to persons required to make deposits under this section. Such a person will not be excused from making a deposit, however, by the fact that no form has been furnished. A person not supplied with the form is required to apply for it in ample time to make the required deposits within the time prescribed, supplying with the application the person's name, employer identification number, address, and the taxable period to which the deposits will relate. Copies of the Federal Firearms and Ammunition Excise Tax Deposit form may be obtained by applying for them with the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153.

* * * * *

8. Section 53.158 is added to read as follows:

**§ 53.158 Payment of tax by electronic fund transfer.**

(a) *In general.* For return periods after September 30, 1992, any taxpayer liable for firearms and ammunition excise taxes incurred under this part may elect to remit payments and deposits of the taxes (taxpayments) by electronic fund transfer (EFT). A taxpayer who elects to make remittance by EFT must use that method of remitting excise taxes on firearms and ammunition for a minimum of four consecutive calendar quarters. A taxpayer who makes remittance by EFT for a calendar quarter may not use any other method of remitting and ammunition excise taxes for that quarter.

(b) *Requirements.* (1) On or before the 10th day of the calendar quarter preceding the calendar quarter in which the taxpayer will begin remitting taxes by EFT, each taxpayer who elects to make remittances by EFT of firearms and ammunition excise taxes incurred under this part shall give written notice to the regional director (compliance) of the ATF region in which taxes are paid, indicating that remittances will be paid by EFT. Taxpayers who gave written notification in a previous calendar quarter electing to make remittances of tax by EFT are not required to give additional written notifications to continue remitting tax by EFT for succeeding calendar quarters.

(2) For each deposit made or return filed in accordance with this subpart, the taxpayer shall direct the taxpayer's financial institution to make an EFT in the amount of the taxpayment to the Treasury Account as provided in paragraph (e) of this section. The request will be made to the financial institution early enough for the transfer of funds to be made to the Treasury Account by no later than the close of business on the last day for making the deposit or filing the return as prescribed in §§ 53.157 and 53.153. The request will take into account any time limit established by the financial institution.

(3) Taxpayers who elect to discontinue making remittances by EFT of firearms and ammunition excise taxes may make such election at any time following four consecutive calendar quarters in which tax is remitted by EFT. Taxpayers electing to discontinue making remittances by EFT shall remit the tax with the next deposit or return as prescribed in §§ 53.157 and 53.151 for remittances not made by EFT and notify the regional director (compliance) by attaching a written notification to the tax deposit form or return stating that remittance of firearms and ammunition excise taxes will no longer be made by EFT.

(c) *Remittance.* (1) Taxpayers who elect to make firearms and ammunition excise taxpayments by EFT shall file the deposit form and/or return with ATF in accordance with the applicable instructions on the forms.

(2) Remittances will be considered as made when the taxpayment by EFT is received by the Treasury Account when it is paid to a Federal Reserve Bank.

(3) When the taxpayer directs the financial institution to effect an electronic fund transfer message as required by paragraph (b)(2) of this section, the transfer data record furnished to the taxpayer through normal banking procedures will serve as the record of payment and will be retained as part of the required records.

(d) *Failure to make a taxpayment by EFT.* The taxpayer is subject to penalties imposed by 26 U.S.C. 6651 and 6656, as applicable, for failure to make a payment or deposit of tax by EFT on or before the close of business on the prescribed last day for making such payment or deposit.

(e) *Procedure.* Upon the notification required under paragraph (b)(1) of this section, the regional director (compliance) will issue to the taxpayer an ATF Procedure entitled Payment of Tax by Electronic Fund Transfer. This publication outlines the procedure a taxpayer follows when preparing deposits, returns and EFT remittances in accordance with this subpart.

Signed: June 17, 1992.

**Stephen E. Higgins,**
*Director.*

Approved: July 24, 1992.

**Peter K. Nunez,**
*Assistant Secretary (Enforcement).*

[FR Doc. 92-21055 Filed 9-2-92; 8:45 am]

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## 27 CFR Part 70

**[T.D. ATF-331; No. 92-D-003]**

## Change in Certain Procedural and Administrative Practices Regarding Firearms and Ammunition Excise Taxes

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

**ACTION:** Treasury decision, final rule.

**SUMMARY:** ATF is amending certain of its procedural regulations to adopt the IRS procedures with respect to claims for refund, offers in compromise, and enforced collection in relation to firearms and ammunition excise taxes. These amendments are the result of the transfer of authority to administer the excise taxes on firearms and ammunition from the Commissioner, IRS, to the Director, ATF.

**EFFECTIVE DATE:** September 3, 1992.

**FOR FURTHER INFORMATION CONTACT:** Tamara Light, Specialist, Revenue Programs Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091-0221, (202-927-8210).

**SUPPLEMENTARY INFORMATION:**

### Background

On November 5, 1990, the Secretary of the Treasury signed Treasury Order No. 120-03 (55 FR 47422) which transferred the authority to administer the excise taxes on firearms and ammunition from the Commissioner, IRS, to the Director, ATF. The order gave the Director the authority to issue regulations for the purpose of carrying out the functions, powers, and duties delegated under the Treasury Order. The order also provided that all rules and regulations of the IRS prescribed for the enforcement of 26 U.S.C. 4181 would continue in effect as rules and regulations of ATF until superseded or revised.

Effective January 1, 1991, T.D. ATF-308 (56 FR 302, January 3, 1991) adopted the existing IRS regulations in 26 CFR part 48 and established ATF regulations in 27 CFR part 53 relating to firearms and ammunition excise taxes. The procedural IRS regulations in 26 CFR part 301 with respect to claims for refund, offers in compromise, and enforced collection for firearms and ammunition excise taxes continued to be utilized by ATF.

This final rule merely amends ATF procedural regulations in 27 CFR part 70 to include those provisions of the IRS regulations relating to claims for refund, offers in compromise, and enforced collection with respect to firearms and ammunition excise taxes.

### Executive Order 12291

Because this rule relates to agency organization, management and procedure, the provisions of Executive Order 12291 do not apply.

### Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because the agency was not required to publish a general notice of proposed rulemaking under 5 U.S.C. 553 or any other law. A copy of this final rule has been submitted to the Administrator of the Small Business Administration for comment on the impact of such regulation on small business, pursuant to 26 U.S.C. 7805(f).

### Administrative Procedure Act

Because this final rule merely adopts existing IRS procedural regulations relating to claims for refund, offers in compromise, and enforced collection of firearms and ammunition excise taxes, it is hereby found to be unnecessary to issue this Treasury decision with notice and public procedure under 5 U.S.C. 533(b) or subject to the effective date limitation in 5 U.S.C. 553(d).

### Paperwork Reduction Act

This final rule does not affect any recordkeeping or reporting requirements.

### Drafting Information

The principal author of this document is Tamara Light, ATF Specialist, Revenue Programs Division, Bureau of Alcohol, Tobacco and Firearms.

### List of Subjects in 27 CFR Part 70

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations, Claims, Excise taxes, Firearms and ammunition, Government employees, Law enforcement, Law enforcement officers, Penalties, Seizures and forfeitures, Surety bonds, Tobacco.

Authority and Issuance.

## PART 70—PROCEDURE AND ADMINISTRATION

Part 70—Procedure and Administration, is amended as follows:

1. The authority citation for part 70 is revised to read as follows:

**Authority:** 5 U.S.C. 301 and 552; 26 U.S.C. 4181, 4182, 5146, 5203, 5207, 5275, 5367, 5415, 5504, 5555, 5684(a), 5741, 5761(b), 6020, 6021, 6064, 6102, 6155, 6159, 6201, 6203, 6204, 6301, 6303, 6311, 6313, 6314, 6321, 6323, 6325, 6326, 6331-6343, 6401-6404, 6407, 6416, 6423, 6501-6503, 6511, 6513, 6514, 6532, 6601, 6602, 6611, 6621, 6622, 6651, 6653, 6656, 6657, 6658, 6665, 6671, 6672, 6701, 6723, 6801, 6862, 6863, 6901, 7011, 7101, 7102, 7121, 7122, 7207, 7209, 7214, 7304, 7401, 7403, 7406, 7423, 7424, 7425, 7426, 7429, 7430, 7432, 7502, 7503, 7505, 7506, 7513, 7601-7606, 7608-7610, 7622, 7623, 7653, 7805.

2. Section 70.1(d) is revised to read as follows:

### § 70.1 General.

* * * * *

(d) Distilled spirits, wines, beer, tobacco products, cigarette papers and tubes, firearms, ammunition, and explosives.

3. Section 70.11 is amended by revising the definition for "Provisions of 26 U.S.C. enforced and administered by the Bureau" to read as follows:

### § 70.11 Meaning of terms.

* * * * *

*Provisions of 26 U.S.C. enforced and administered by the Bureau.* Sections 4181 and 4182 of the Internal Revenue Code of 1986 (the Code), as amended; subchapters F and G of chapter 32 of the Code, insofar as they relate to activities administered and enforced with respect to sections 4181 and 4182 of the Code; subtitle E of the Code; and subtitle F of the Code as it relates to any of the foregoing.

* * * * *

4. Section 70.21 is revised to read as follows:

### § 70.21 Canvass of regions for taxable persons and objects.

Each regional director (compliance) shall, to the extent deemed practicable, cause officers or employees under the regional director's supervision and control to proceed, from time to time, through the region and inquire after and concerning all persons therein who may be liable to pay any tax, imposed under provisions of 26 U.S.C. enforced and administered by the Bureau, and all persons owning or having the care and management of any objects with respect to which such tax is imposed.

5. Section 70.22 is amended by revising paragraph (a) to read as follows:

**§ 70.22 Examination of books and witnesses.**

(a) *In general.* For the purpose of ascertaining the correctness of any return, making a return where none has been made, determining the liability of any person for any tax imposed under provisions of 26 U.S.C. enforced and administered by the Bureau (including any interest, additional amount, addition to the tax, or civil penalty) or the liability at law or in equity of any transferee or fiduciary of any person in respect of any such tax, or collecting any such liability, any authorized officer or employee of the Bureau may examine any books, papers, records or other data which may be relevant or material to such inquiry; and take such testimony of the person concerned, under oath, as may be relevant to such inquiry.

* * * * *

6. Section 70.32 is revised to read as follows:

**§ 70.32 Examination of records and objects.**

Any officer of the Bureau may enter, during business hours, the premises of any regulated establishment for the purpose of inspecting and examining any records, articles, or other objects required to be kept by such establishment under 18 U.S.C. chapter 40 or 44, or provisions of 26 U.S.C. enforced and administered by the Bureau, or regulations issued pursuant thereto.

(68A Stat. 715, as amended, 903, 72 Stat. 1348, 1361, 1373, 1381, 1390, 1391, 1395, 82 Stat. 231, as amended, 84 Stat. 955; (26 U.S.C. 5741, 7606, 5146, 5207, 5275, 5367, 5415, 5504, 5555, 18 U.S.C. 923, 843))

7. Section 70.61 is amended by revising paragraph (a)(3) to read as follows:

**§ 70.61 Payment by check or money order.**

(a) * * *

(3) *Payment of tax on distilled spirits, wine, beer, tobacco products, pistols, revolvers, firearms (other than pistols and revolvers), shells and cartridges; proprietor in default.* Where a check or money order tendered in payment for taxes on distilled spirits, wine or beer products (imposed under Chapter 51 of the Internal Revenue Code), or tobacco products (imposed under chapter 52 of the Internal Revenue Code), or pistols, revolvers, firearms (other than pistols and revolvers), shells and cartridges (imposed under chapter 32 of the Internal Revenue Code) is not paid on presentment, or where a taxpayer is otherwise in default in payment of such taxes, any remittance for such taxes made during the period of such default, and until the regional director (compliance) finds that the revenue will not be jeopardized by the acceptance of personal checks, shall be in cash, or shall be in the form of a certified, cashier's, or treasurer's check, drawn on any bank or trust company incorporated under the laws of the United States, or under the laws of any State or possession of the United States, or a money order as described in paragraph (a)(1) of this section.

* * * * *

8. Section 70.131 is revised to read as follows:

**§ 70.131 Conditions to allowance.**

(a) For regulations under section 6416 of the Internal Revenue Code, see part 53 of this chapter, relating to manufacturers excise taxes on firearms and ammunition.

(b) For regulations under section 6423 of the Internal Revenue Code, see part 170 of this chapter, relating to distilled spirits, wine, and beer; and part 296 of this chapter, relating to tobacco products, and cigarette papers and tubes.

**§ 70.131 [Amended]**

9. The authority citation immediately following § 70.131 is revised to read as follows:

* * * * *

(26 U.S.C. 6416 and 6423)

10. Section 70.223 is amended by revising paragraph (b) to read as follows:

**§ 70.223 Exceptions to general period of limitations on assessment and collection.**

(a) * * *

(b) *Willful attempt to evade tax.* In the case of a willful attempt in any manner to defeat or evade any tax imposed by provisions of 26 U.S.C. enforced and administered by the Bureau, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

* * * * *

11. Part 70 is amended by revising the undesignated center heading immediately following section 70.438 to read as follows:

**Provisions Relating to Firearms, Shells and Cartridges, and Explosives**

12. Section 70.441 is amended by adding a new paragraph (f) to read as follows:

**§ 70.441 Applicable laws.**

* * * * *

(f) Chapter 32 of the Internal Revenue Code (26 U.S.C. 4181), imposes a tax upon the sale by the manufacturer, producer, or importer of pistols, revolvers, firearms (other than pistols and revolvers), and shells and cartridges.

13. Section 70.443 is revised to read as follows:

**§ 70.443 Firearms and ammunition.**

(a) *Commerce in firearms and ammunition.* (1) 27 CFR part 178 contains the regulations relative to:

(i) The licensing of importers and manufacturers of firearms and ammunition, collectors of firearms, and dealers in firearms,

(ii) The identification of firearms,

(iii) The acquisition and disposition of firearms and ammunition,

(iv) The records required to be kept by licensees, and

(v) The forfeiture and disposition of seized firearms and ammunition, under the provisions of title I of the Gun Control Act of 1968, as amended, and also

(vi) The restrictions regarding the receipt, possession, or transportation of firearms by certain persons.

(b) *Firearms and ammunition excise taxes.* (2) 27 CFR part 53 contains the regulations relative to:

(i) Payment of excise tax on the sale of pistols, revolvers, firearms (other than pistols and revolvers), shells and cartridges,

(ii) Establishing constructive sales price,

(iii) Registration for tax free sales,

(iv) Keeping of records and rendering of returns, and

(v) The exportation or use in further manufacture of tax-paid articles.

14. Section 70.448 is revised to read as follows:

**§ 70.448 Claims.**

(a) The procedures applicable to the filing of claims under chapter 53 of the Internal Revenue Code are set forth below:

(1) Claims for refund of the making and transfer taxes, and of occupational taxes, whether paid pursuant to assessment or voluntarily paid, and claims for redemption of "National Firearms Act" stamps, are prepared and filed in accordance with the procedures set forth in 27 CFR part 179.

(2) Claims for abatement of making and transfer taxes, and claims for abatement of occupational taxes and penalties erroneously assessed, are

prepared and filed in accordance with the procedures set forth in § 70.413(b).

(3) Claims may be reopened or amended in accordance with the provisions of § 70.414 (k) and (l).

(b) The procedures applicable to the filing of claims relating to the tax imposed by section 4181 of the Internal Revenue Code are set forth below:

(1) Claims for credit or refund of manufacturers taxes, whether paid pursuant to assessment of voluntarily paid, are prepared and filed in accordance with the procedures set forth in § 70.123 and 27 CFR 53.171 through 53.186. For regulations under section 6416 of the Internal Revenue Code, relating to conditions to allowance and other procedural requirements, see 27 CFR 53.172 through 53.186.

(2) Claims for abatement of manufacturers taxes are to be prepared and filed in accordance with § 70.125.

(3) Claims may be reopened or amended in accordance with the provisions of § 70.414 (k) and (l).

15. Section 70.449 is revised to read as follows:

**§ 70.449 Offers in compromise.**

The procedures in the case of offers in compromise of liabilities under 26 U.S.C. 4181 and chapter 53 are set forth in §§ 70.482 and 70.484.

16. Section 70.471 is amended by revising paragraph (a)(3) to read as follows:

**§ 70.471 Rulings.**

(a) * * *

(3) The taxes relating to machine guns, destructive devices, and certain other firearms imposed by chapter 53 of the Internal Revenue Code; the registration by importers and manufacturers of, and dealers in, such firearms; the registration of such firearms; the licensing of importers and manufacturers of, and dealers in, firearms and ammunition, and collectors of firearms and ammunition curios and relics under chapter 44 of title 18 of the United States Code; the licensing of manufacturers, importers, limited manufacturer of, and dealers in, explosives and issuance of permits for users of explosives under chapter 40 of title 18 of the United States Code; and registration of importers of, and permits to import, arms, ammunition, and implements of war, under section 38 of the Arms Export Control Act of 1976; and the taxes relating to pistols, revolvers, firearms (other than pistols and revolvers), shells and cartridges imposed by chapter 32 of the Internal Revenue Code, may request a ruling thereon by addressing a letter to the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, to the Chief, Tax Processing Center, or to the regional director (compliance) of the ATF region in which the inquirer's business is located. Since a ruling can issue only from the Bureau Headquarters, any such request made to the Chief, Tax Processing Center or to the regional director (compliance) will be referred to the Director for reply unless the issues involved are clearly covered by currently effective rulings or come within the plain intent of the statutes or regulations.

* * * * *

17. Section 70.482 is amended by revising paragraph (d)(1) to read as follows:

**§ 70.482 Offers in compromise of liabilities (other than forfeiture) under 26 U.S.C..**

* * * * *

(d) *Procedure with respect to offers in compromise*—(1) *Submission of offers.* (i) Offers in compromise under this section shall be submitted on ATF Form 5640.1, along with any additional information required by the official authorized to accept or reject the offer. If the offer in compromise is based on inability to pay, the proponent must submit any financial statement required by such official.

(ii) The Associate Director (Compliance Operations) has the authority to accept or reject offers in compromise of civil liability (which do not exceed $1,000,000) and criminal liability arising under 26 U.S.C. 4181 and chapters 51, 52, and 53 in cases not subject to compromise by regional directors (compliance).

(iii) Each regional director (compliance) has the authority to accept or reject offers in compromise of:

(A) Tax liabilities arising from:

(*1*) The illegal production of untaxpaid distilled spirits, wines, or beer,

(*2*) The failure to file returns of, or to pay, occupational taxes with respect to distilled spirits, wines, beer, tobacco products, cigarette papers and tubes, or firearms,

(*3*) The failure to pay firearms making or transfer taxes; and

(B) Criminal liabilities of retail dealers in liquor arising from violations of the internal revenue laws relating to liquor, including the reuse or refilling of liquor bottles.

(iv) The Director accepts or rejects all other offers in compromise except those in compromise of liabilities listed in §§ 70.483 and 70.484 of this part.

(v) In civil cases involving liability of $500 or over and in criminal cases the functions of the General Counsel under 26 U.S.C. 7122(b) are performed by the Chief Counsel of the Bureau of Alcohol, Tobacco and Firearms.

(vi) The offer should generally be accompanied by a remittance representing the amount of the compromise offer or a deposit if the offer provides for future installment payments. When final action has been taken, the regional director (compliance), when applicable, and the proponent are notified of the acceptance or rejection of the offer.

* * * * *

Signed: June 25, 1992.

**Daniel R. Black,**

*Acting Director.*

Approved: August 10, 1992.

**Peter K. Nunez,**

*Assistant Secretary (Enforcement).*

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## Fiscal Service

## 31 CFR Part 204

**RIN Number—1510-AA28**

## Responsibilities and Liabilities Under Letter of Credit—Treasury Financial Communications System (LOC-TFCS)

**AGENCY:** Financial Management Service, Fiscal Service, Treasury.

**ACTION:** Final rule; removal.

**SUMMARY:** The Financial Management Service is removing sections 204.1; 204.2; 204.3; 204.4; 204.5; 204.6. This action removes the Letter of Credit—Treasury Financial Communications System (LOC-TFCS) regulations from this Part. Part 204 is reserved.

Use of the funds transfer system described in this Part, known as LOC-TFCS, was discontinued as of December 1991, and is no longer available for use by Federal Program agencies, commercial banks, or the Federal Reserve System.

**EFFECTIVE DATE:** September 3, 1992.

**FOR FURTHER INFORMATION CONTACT:** Tom Maloney, Program Analyst 202-874-6901.

**SUPPLEMENTARY INFORMATION:** LOC-TFCS was an electronic funds transfer system which relied on the Federal Reserve Communications System (FRCS). This system allowed Federal agencies to delivery funds to recipient organization financial institutions under a Federal letter-of-credit arrangement. The Board of Governors of the Federal Reserve System announced in March 1988, that current communications protocols were being replaced with new protocols and existing protocols would