

tity of narcotics desired, and the purpose for which intended. The delivery of such narcotics shall be ordered by the Commissioner of Narcotics if, in his opinion, there exists a medical or scientific need therefor. The order will be filed by the Drugs Disposal Committee which will obtain a receipt for narcotic drugs delivered.*† (Sec. 703, 48 Stat. 98; 26 U.S.C. 1048)

CROSS REFERENCE: For disposition of forfeited drugs under Bureau of Narcotics regulations, see 21 CFR 202.56.

151.203 Specific penalty. Persons who violate the Act or fail to fulfill its requirements in any particular are liable to punishment, the maximum liability being to a fine of not more than \$2,000 or imprisonment for not more than 5 years, or both, for each offense. However, attention is invited to the provisions of the Act of August 12, 1937 (50 Stat. 627; 21 U.S.C., Sup., 200), which provides for additional punishment for second, third and subsequent offenders in certain cases.*†

GENERAL

151.204 Correspondence. Correspondence relative to interpretation of the law and the regulations in this part should be addressed to the Commissioner of Narcotics, Washington, D. C. All remittances shall be sent and inquiries relative to registration and requests for blank forms addressed to the local collector of internal revenue. Correspondence regarding charges of violations of the law or regulations should be addressed to the narcotic district supervisor in charge of the proper district.*†

151.205 Effective date. The regulations in this part shall take effect June 1, 1938, and shall supersede all regulations heretofore made and promulgated.*†

PART 152—REGULATIONS UNDER THE MARIHUANA TAX ACT OF 1937

Sec.		Sec.	
	SUBPART A—Laws Applicable	152.10	Rates of tax.
152.1	Statutes applicable.	152.11	Importers.
	SUBPART B—Definitions	152.12	Manufacturers and compounders.
152.2	Meaning of terms.	152.13	Producers.
	SUBPART C—Special taxes	152.14	Dealers.
	Registration	152.15	Practitioners and interdistrict practice.
152.3	Persons liable.	152.16	Laboratory use.
152.4	Manuer and time of registration.		Particular situations
152.5	False applications.	152.17	Several places of business.
152.6	Signatures.	152.18	Itinerant vendors.
	(a) Individuals.	152.19	Partnerships.
	(b) Firms and corporations.	152.20	Institutions.
	(c) Institutions.	152.21	Principals.
152.7	Oath.	152.22	Employees.
	(a) When required.	152.23	Nurses.
	(b) Execution.	152.24	Traveling salesmen.
152.8	Inventory required.	152.25	Operation of State laws.
152.9	Registry numbers.		Delinquent and false returns
	Classification	152.26	Delinquent returns.

*†For statutory and source citations, see note to § 151.1.

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152.9	Registry numbers.		Delinquent and false returns
	Classification	152.26	Delinquent returns.

*†For statutory and source citations, see note to § 151.1.

TITLE 26—INTERNAL REVENUE

Sec.		Sec.	
152.27	Sickness or absence.	152.71	Returns required of importers, manufacturers, and compounders for medicinal use.
152.28	Failure of agent.	152.72	Returns required of producers.
152.29	Delinquent payment.	152.73	Returns required of dealers for other than medicinal use.
152.30	False returns.	152.74	Returns required of dealers for medicinal use.
152.31	When penalty accrues.	152.75	General requirements regarding records required of registrants.
	Changes after tax payment	152.76	Returns required to be under oath.
152.32	Change of control.		Records
152.33	Change of name or location.	152.77	Laboratory use.
152.34	Registration.		General provisions
152.35	Removal within district.	152.78	Records and returns to be retained.
152.36	Removal to another district.	152.79	Special reports.
152.37	Liability for failure to register change.	152.80	Examining records.
	Special tax stamps	152.81	Records open to inspection.
152.38	Issuance of stamps.		SUBPART F—Special exemptions
152.39	Posting of stamps.		Exempt officials
152.40	Certificates in lieu of stamps lost or destroyed.	152.82	Exempt officials.
	SUBPART D—Transfer taxes	152.83	Military and naval officers.
	Rates of tax	152.84	Civil officers.
152.41	Scope of tax.	152.85	Procurement of marihuana.
152.42	Amount of tax.	152.86	Enforcement officers.
152.43	Method of payment.		Transfer procedure by officials
152.44	Affixing and canceling of stamps.	152.87	Orders and prescriptions.
152.45	Re-use of stamps prohibited.	152.88	Filing and filing orders and prescriptions.
	Order forms		Transfers to Puerto Rico and the Virgin Islands
152.46	Written order required for transfer of marihuana.	152.89	Transfers to be made pursuant to orders.
152.47	Signing of applications.	152.90	Record of transfers required.
152.48	Signatures to be compared.		SUBPART G—Administrative provisions
152.49	Procedure regarding order forms.		Assessment of tax
152.50	Applications to be filed.	152.91	Assessment of taxes not paid by stamp.
152.51	Importations.	152.92	Jeopardy assessment.
	Exceptions	152.93	Payment by check.
152.52	When order forms not required.	152.94	Claims.
152.53	Dispensing by practitioners.	152.95	Refunds.
152.54	Form of record.		Miscellaneous
152.55	Who may issue prescriptions.	152.96	Safeguarding of marihuana.
152.56	Who may fill prescriptions.	152.97	Procedure with reference to losses.
152.57	Purpose of issue.	152.98	Procedure on discontinuance of business.
152.58	Responsibility for issue.		Forfeitures and penalties
152.59	Manner of execution.	152.99	Disposition of forfeited marihuana.
152.60	Refilling of prescriptions.		
152.61	Partial filling.	152.100	Court sales.
152.62	Telephone orders.	152.101	List of taxpayers.
152.63	Form to be used.	152.102	Specific penalty.
152.64	Filing.	152.103	Correspondence.
152.65	Labels on containers.	152.104	Effective date.
152.66	Exportations.		
152.67	Orders and prescriptions.		
152.68	Transfer of seeds.		
	SUBPART E—Information returns and records		
	Returns		
152.69	Returns required of importers for other than medicinal use.		
152.70	Returns required of manufacturers and compounders for other than medicinal use.		

SUBPART A—LAWS APPLICABLE

Section 152.1 Statutes applicable. All general provisions of the internal revenue laws, not inconsistent with the Marihuana Tax Act (50 Stat. 551; 26 U.S.C., Sup., 1399–1399q), are applicable in the enforcement of the latter.*† (Sec. 7, 50 Stat. 554; 26 U.S.C., Sup., 1399f)

*§§ 152.1 to 152.104, inclusive, issued under the authority contained in sec. 14, 50 Stat. 556; 26 U.S.C., Sup., 1399m. The authority of the Secretary of the Treasury to make, prescribe, and publish regulations was delegated to the Commissioners of Narcotics and Internal Revenue by T.D. 28, Sept. 1, 1937, 2 F.R. 1808.

†In §§ 152.1 to 152.104, inclusive, the numbers to the right of the decimal point correspond with the respective article numbers in Bureau of Narcotics Regulations 1, promulgated by the Commissioners of Narcotics and Internal Revenue, and approved by the Secretary of the Treasury, Sept. 29, 1937, 2 F.R. 2054.

SUBPART B—DEFINITIONS

152.2 Meaning of terms. As used in this part:

(a) The term “Act” or “this Act” shall mean the Marihuana Tax Act of 1937, unless otherwise indicated.

(b) The term “United States” shall include the several States, the District of Columbia, the Territory of Alaska, the Territory of Hawaii, and the insular possessions of the United States except Puerto Rico and the Virgin Islands. It does not include the Canal Zone or the Philippine Islands.

(c) The terms “manufacturer” and “compounder” shall include any person who subjects marihuana to any process of separation, extraction, mixing, compounding, or other manufacturing operation. They shall not include one who merely gathers and destroys the plant, one who merely threshes out the seeds on the premises where produced, or one who in the conduct of a legitimate business merely subjects seeds to a cleaning process.

(d) The term “producer” means any person who induces in any way the growth of marihuana; and any person who harvests it, either in a cultivated or wild state, from his own or any other land, and transfers or makes use of it, including one who subjects the marihuana which he harvests to any processes rendering him liable also as a manufacturer or compounder. Generally all persons are included who gather marihuana for any purpose other than to destroy it. The term does not include one who merely plows under or otherwise destroys marihuana with or without harvesting. It does not include one who grows marihuana for use in his own laboratory for the purpose of research, instruction, or analysis and who does not use it for any other purpose or transfer it.

(e) The term “special tax” is used to include any of the taxes, pertaining to the several occupations or activities covered by the act, imposed upon persons who import, manufacture, produce, compound, sell, deal in, dispense, prescribe, administer, or give away marihuana.

(f) The term “person” occurring in the regulations in this part is used to include an individual, partnership, trust, association, company, or corporation; also a hospital, college or pharmacy, medical or dental clinic, sanatorium, or other institution or entity.

(g) Words importing the singular may include the plural; words importing the masculine gender may be applied to the feminine or the neuter.

(h) The definitions contained herein shall not be deemed exclusive.*† (Sec. 1, 50 Stat. 551; 26 U.S.C., Sup., 1399)

SUBPART C—SPECIAL TAXES

REGISTRATION

152.3 Persons liable. Liability to payment of special tax and registration attaches to every person who imports, manufactures, produces, compounds, sells, deals in, dispenses, prescribes, administers, or gives away marihuana. As to the liability of a person engaged in one or more of the foregoing activities to several taxes see § 152.10.*† (Sec. 2 (a), 50 Stat. 551; 26 U.S.C., Sup., 1399a (a))

152.4 Manner and time of registration. Every person who engages, at any time during the first 16 days of October, 1937, in any activity subjecting him to special tax shall, on or before the 16th day thereof, file application for registration and return of tax liability, hereinafter sometimes referred to as the “application”, and pay the tax or taxes enumerated in § 152.10 for the period ending June 30, 1938. Any person not engaging in any such activity during the 16 days mentioned, but so engaging thereafter shall file the application and pay the tax, before commencing such activity. Filing of successive applications and payment of tax are required on or before July 1 of each year thereafter, during which taxable activity continues. Form 678c shall be executed by those filing applications on or before October 16, 1937, and for original or nonsuccessive registrations after that date. Form 678d shall be used for successive registrations on or before July 1, annually, as long as taxable activity continues. The forms may be obtained from the collector.*† (Sec. 2 (e), 50 Stat. 552; 26 U.S.C., Sup., 1399a (a) (e))

152.5 False applications. The false or fraudulent execution or signing of any application for registration or any supporting affidavit required shall subject the offending person to the liabilities imposed by Section 3451, Revised Statutes (26 U.S.C. 1693).*†

152.6 Signatures—(a) Individuals. The application must be signed by the person desiring registration.

(b) Firms and corporations. The application of a firm must be signed by a member, that of a corporation by an officer duly authorized to act. The names of the real owners must be disclosed if the business is being carried on under an assumed or trade name or that of a former owner. If owned by a partnership, the name of each partner must appear. In the case of a corporation, the names of the principal officers must be shown.

(c) **Institutions.** When an institution is subject to tax the head thereof or of the department wherein marihuana is used shall sign the application for registration.*†

152.7 Oath—(a) When required. If the tax is more than \$10, the application must be under oath. If the tax is not in excess of \$10, the application may be signed or acknowledged before two witnesses in lieu of an oath. The witnesses must themselves sign the application in their capacity as such.

(b) **Execution.** The jurat may be executed by any officer authorized to administer oaths. No charge is made if documents required by the regulations in this part are sworn and subscribed to before a deputy collector or an internal-revenue agent.*†

152.8 Inventory required. Every person, making application for registry or reregistry in Class III who is not required to render returns on form 961 and its supplements or on form 810 and its supplements, or in Class IV or V, must prepare under oath or affirmation, in duplicate, an inventory of all marihuana and preparations thereof on hand. Persons making application for registry between October 1, 1937, and June 30, 1938, shall prepare the inventory as of October 1, 1937, or any date between October 1, 1937, and the date of application. Persons making application for registry or reregistry on or after July 1, 1938, shall prepare the inventory as of December 31 preceding the date of the application or any date between December 31 and the date of the application. The inventories may be prepared on Form 713 (used by registrants under the Harrison narcotic law, 38 Stat. 785; 26 U.S.C. 1040-1054, 1383-1391, as amended, for submitting inventories of narcotic drugs on hand), copies of which may be obtained from collectors upon request. If the taxpayer is engaged in more than one of these classes of business, a separate inventory must be prepared for each class. The original inventory must be forwarded to the collector with the application for registration, and the duplicate must be kept on file by the maker for a period of 2 years. Persons also applying for registration under the Harrison narcotic law, as amended, in any one of the classes with respect to which they are required to submit inventories, on Form 713, of narcotic drugs and preparations on hand, may include the marihuana inventory on this same form.*†

CROSS REFERENCES: For regulations under the Harrison Narcotic Law, as amended, see Part 151. For tax rate classes, see § 152.10.

152.9 Registry numbers. Upon approval of the application the collector will assign a registry number to the applicant. The numbers are issued serially without regard to classes. The same number shall be retained throughout all the consecutive periods for which the applicant may be registered. In the case of one engaged in business at two or more places or registered in two or more classes at the same place a separate number will be assigned for each place or class. The registry number of a person who discontinues operations will not be assigned to any other person for any portion of the same fiscal year.*†

*†For statutory and source citations, see note to § 152.1.

CLASSIFICATION

152.10 Rates of tax. Persons subject to tax are divided into classes as shown by the table below :

Class	Annual tax rate	Persons liable
I	\$24	Importers, manufacturers, and compounders.
II	1	Producers, except those included in class V.
III	3	Dealers, other than physicians, dentists, veterinary surgeons, or other practitioners.
IV	1	Physicians, dentists, veterinary surgeons, and other practitioners.
V	1	Producers and other persons, other than importers, manufacturers, producers, and compounders, who use marihuana in a laboratory for the purpose of research, instruction, or analysis.

Persons registering in Classes I or III shall pay the entire tax if business is commenced in July, but if business is commenced after the month of July the amount due is to be reckoned proportionately from the 1st day of the month in which business is begun to July 1 following. Persons registering in Classes II, IV, or V shall pay the tax of \$1 a year or for any fractional part thereof, regardless of when business is commenced.*† (Sec. 2 (a), 50 Stat. 551; 26 U.S.C., Sup., 1399a)

152.11 Importers. Every person who imports marihuana is subject to tax as an importer at the rate of \$24 per annum in Class I. A manufacturer or compounder who is also an importer is not thereby required to pay more than one tax.*†

CROSS REFERENCE: For tax rate classes, see § 152.10.

152.12 Manufacturers and compounders. Every person coming within the definition set out in § 152.2 (c) is subject to tax as a manufacturer or compounder at the rate of \$24 per annum in Class I.*†

CROSS REFERENCE: For tax rate classes, see § 152.10.

152.13 Producers. Every person coming within the definition set out in § 152.2 (d) is subject to tax as a producer at the rate of \$1 per annum or fraction thereof in Class II.*†

CROSS REFERENCE: For tax rate classes, see § 152.10.

152.14 Dealers. Generally, one who sells, gives away, or dispenses marihuana in any form, is subject to tax as a dealer at the rate of \$3 per annum in Class III. However, liability as a dealer does not attach to a physician, dentist, veterinary surgeon, or other practitioner who, incidentally to the legitimate practice of his profession, dispenses marihuana. A physician, dentist, veterinary surgeon, or other practitioner who sells or dispenses marihuana apart from the legitimate practice of his profession incurs liability as a dealer. A manufacturer, compounder, or producer, who has paid special tax

in such capacity does not incur additional liability on account of sales of his own products at the place of production, or in the case of an importer at his principal place of business. As to the limited right of a manufacturer or producer to sell free from payment of additional special tax away from the factory or place of production, see § 152.17. Except as indicated, liability for additional tax as a dealer is incurred at each additional place where sales are made. Retail druggists who have paid tax as dealers do not incur liability as manufacturers or compounders on account of compounding marihuana preparations to fill legitimate prescriptions even though the preparations are compounded in advance of receipt of prescriptions, so long as they are used for prescription purposes only.*†

CROSS REFERENCE: For tax rate classes, see § 152.10.

152.15 Practitioners and interdistrict practice. Physicians, dentists, veterinary surgeons, and other practitioners, including institutions, who prescribe, distribute, dispense, give away, or administer marihuana, are subject to tax at the rate of \$1 per annum or fraction thereof in Class IV.

A practitioner maintaining an office where he is duly registered with the collector of the district in which the office is located, and where his complete stock of marihuana and marihuana records are kept, may distribute, dispense, give away, administer, or prescribe marihuana in other collection districts in which he may be lawfully engaged in the practice of his profession, within the United States, in the course of his professional practice only, without incurring additional tax liability.*†

152.16 Laboratory use. Chemists occupying an independent status and not that of employees, in other words, in business for themselves, who make analyses of marihuana or use marihuana in analyzing other substances in a laboratory, and persons who produce or obtain and use in a laboratory any marihuana for the purpose of research, instruction, or analysis, if not registered as an importer, manufacturer, compounder, or producer, are subject to tax at the rate of \$1 per annum or fraction thereof in Class V, provided no marihuana is manufactured or compounded for sale or for removal for consumption or sale.*†

CROSS REFERENCE: For tax rate classes, see § 152.10.

PARTICULAR SITUATIONS

152.17 Several places of business. Generally a taxpayer must pay as many special taxes as he has places of business. Thus if a concern has one or more separate branches where any of the various taxable businesses is carried on, tax must be paid for each branch separately. However, a manufacturer or producer upon a single payment of special tax may sell products of his own manufacture or production at both the place of manufacture or production and his principal office or place of business, provided no products, except samples, are kept at said office or place of business. Tax does not attach with respect to a warehouse where marihuana is stored, provided no sales are made at such place.*†

*†For statutory and source citations, see note to § 152.1.

152.18 Itinerant vendors. No person is permitted to deal in marihuana except upon orders received or engagements made at, with respect to, or by reason of, a fixed address. A peddler of marihuana will be regarded as incurring a separate tax liability and committing an additional offense at each place where a sale is made.*†

152.19 Partnerships. A partnership is subject to the same tax liability as an individual. Should either of the partners also individually engage in a taxable activity, he will incur additional liability with respect to such activity.*†

152.20 Institutions. Hospitals, colleges, medical and dental clinics, sanatoriums, and other institutions not exempt as public institutions are subject to the same special tax liability as other persons dealing in or handling marihuana in the same manner.*†

152.21 Principals. Principals, rather than agents, are liable to the taxes imposed. Employers and other principals will be regarded as responsible for the acts of employees and other agents within the scope of their employment.*†

152.22 Employees. An employee of a person who has registered and paid tax will not himself incur liability to tax so long as he acts solely within the scope of his employment. However, an employee who, within or without the scope of his employment, does any unlawful act, will be held personally liable.*†

152.23 Nurses. Nurses are regarded as agents of the practitioners or institutions under whose direction or supervision their duties are performed, and they are not permitted to register, nor are they permitted to be in possession of marihuana except as such agents, or as patients. Marihuana left by a practitioner with a nurse, to be administered during his absence, upon discharge of the nurse must be returned to the practitioner, who will account for the marihuana on his records. Any marihuana found in the possession of a nurse not at the time under the supervision of a practitioner shall be forfeited to the Government.*†

152.24 Traveling salesmen. Traveling salesmen who merely solicit orders and forward them to their respective principals are not required to register or pay any tax.*†

152.25 Operation of State laws. Payment of special tax under Federal law confers no right or privilege to conduct business contrary to State law. The holder of a special-tax stamp issued by the Federal Government may still be punishable under a State law prohibiting or regulating the production, manufacture, or sale of marihuana. On the other hand, compliance with State law affords no immunity under Federal law. Persons who engage in business in violation of the law of a State are, nevertheless, required to pay special tax as imposed under the internal-revenue laws of the United States.*† (R.S. 3243; 26 U.S.C. 1407)

CROSS REFERENCE: For regulations under the Bureau of Narcotics Act relating to cooperation with States, see 21 CFR Part 201.

DELINQUENT AND FALSE RETURNS

152.26 Delinquent returns. Every person from whom a special-tax return is required who, without reasonable cause, fails to file such return on time is subject to certain penalties. Under section 406 of the Revenue Act of 1935 (49 Stat. 1027; 26 U.S.C., Sup., 1525) the penalty for delinquency is 5 percent, if the failure is for not more than 30 days, and an additional 5 percent for each additional 30 days, or fraction thereof, during which the delinquency continues, not to exceed 25 percent in the aggregate.*† (R.S. 3176, as amended; 26 U.S.C. 1524)

152.27 Sickness or absence. If the collector is satisfied that failure to file a return is due to sickness or absence, he may extend the time for not more than 30 days. Since any member of a firm may make the return, sickness or absence of less than all the members of a firm will not relieve from liability to the penalty for failure to make return, nor afford ground for extension of time.*†

152.28 Failure of agent. If an attorney or agent is delegated to make a return and pay special tax, the principal will incur the penalty if the return is not filed within the time prescribed by law.*†

CROSS REFERENCE: For time when penalty accrues, see § 152.31.

152.29 Delinquent payment. Failure to pay the amount of an assessment within 10 days after issuance of form 17 (First Notice and Demand) causes to accrue a 5 percent penalty and interest at the rate of 6 percent per annum from the date of the expiration of the 10-day period to the date of payment.*†

152.30 False returns. For making a false or fraudulent return additional liability amounting to 50 percent of the total tax is incurred. If a return covers only a portion of a year or period for which liability is incurred, the return is false as a whole and not merely as to that portion of the year or period omitted.*†

152.31 When penalty accrues. In view of the positive language of section 2 (a) of the Act, all persons engaging in business under this act will be regarded as delinquent and the penalties provided are applicable unless applications are filed (a) not later than October 16, 1937, or (b) before engaging in business if business is commenced after October 16, 1937, and (c) thereafter on or before July 1 of each year or on or before the date upon which liability is incurred.*†

CHANGES AFTER TAX PAYMENT

152.32 Change of control. (a) Certain persons other than the taxpayer may, without incurring additional liability, carry on the business at the same address and for the remainder of the period for which special tax was paid. To secure such right the party or parties continuing the business must execute, within 30 days, a return on Form 678c, showing the basis of the right. As to liability for failure to register change, see § 152.37. Under the conditions indicated the parties having such right include the following:

(1) The relict, children, or other legal representatives of a deceased taxpayer.

*†For statutory and source citations, see note to § 152.1.

(2) A receiver or referee in bankruptcy, or an assignee for the benefit of creditors.

(3) The partner or partners remaining after death or withdrawal of a member.

(b) Special tax, reckoned from the first day of the month in which the change occurs, is incurred and must be paid by the parties indicated under the conditions stated:

(1) Where additional partners are taken into a firm operating under the old or a new firm name.

(2) Where a corporation is formed to continue the business of a partnership, or a new charter is issued to a former corporation.

(3) Where a stockholder or other party continues a business previously conducted by a corporation, whether or not the corporation is dissolved.*† (R.S. 3241; 26 U.S.C. 1411)

152.33 Change of name or location. The name of an individual, firm, or corporation that has paid special tax may be changed, or a special-tax payer may relocate his place of business, without incurring additional tax liability, provided the change is registered with the collector.*†

152.34 Registration. A special-tax payer who changes his name or relocates his place of business shall within 30 days execute a new return on form 678c, marked "Revised registry." The return shall set forth the date of change and the new name or address. The return shall be forwarded with the special-tax stamp to the collector who issued the stamp for recording the change.*†

152.35 Removal within district. Where a taxpayer removes his business to another address within the district the collector will enter on his Record 10 the new address and the date of removal, and will note the change on the face of the special-tax stamp which he will return to the taxpayer.*†

152.36 Removal to another district. Where a taxpayer removes his business to another district the collector who issued the stamp will enter on his Record 10 the new address and date of removal, and will transmit the stamp to the collector of the district to which the taxpayer removed. The collector of that district will then make entry on his Record 10, as in the case of a new registrant, and note the taxpayer's new address and the collector's name, title, and district, and the date, on the stamp, which will be returned to the taxpayer.*†

152.37 Liability for failure to register change. A person succeeding to a business for which tax has been paid, or a taxpayer who relocates his business, without registering the change within 30 days, as required by §§ 152.33, 152.34, respectively, will be liable to the tax, to the penalty set forth in § 152.26 for failure to make return, and also to penalty for carrying on business without payment of tax.*†

SPECIAL TAX STAMP

152.38 Issuance of stamps. Stamps covering special taxes are issued in two forms, with and without coupons. Stamps without coupons are for use in cases where the full tax is due regardless of the

period covered. Coupon stamps are for use in cases where the tax may be prorated. The coupon stamps are issued to registrants in Classes I and III, and the stamps without coupons to registrants in Classes II, IV and V.

Collectors will distinctly write or print on the stamp, before it is issued, the taxpayer's name, address, and registry number, and the number of the class in which registered.*† (R.S. 3232, 3237, 3238, as amended; 26 U.S.C. 1402, 1404)

CROSS REFERENCE: For tax rate classes, see § 152.10.

152.39 Posting of stamps. Every special tax stamp issued to a taxpayer must be kept posted conspicuously on the premises where the business is operated. One who fails so to post a stamp thereby incurs liability to a penalty, equal to and in addition to the tax, plus the cost of prosecution; but in no case shall the penalty (not including the costs of prosecution) be less than \$10. Where the failure is wilful the penalty is doubled. This liability is additional to any and all liability otherwise incurred.*† (R.S. 3239, as amended; 26 U.S.C. 1404 (b), 1405)

152.40 Certificates in lieu of stamps lost or destroyed. The regulations in this part shall apply to certificates on Form 785 issued in lieu of special tax stamps lost or destroyed.*†

SUBPART D—TRANSFER TAXES

RATES OF TAX

152.41 Scope of tax. Except as otherwise provided, each transfer of marihuana to a person within the United States is subject to tax, to be paid in the manner hereinafter indicated. The tax is due whether the transferor be located within the United States or elsewhere. The tax applies to every transfer, no matter how often the same material may be transferred. It is no basis of exemption that a transferred article was produced from material on the transfer of which tax was paid.*†

152.42 Amount of tax. Where the transfer is to a taxable person who has duly registered and paid special tax, the transfer tax is at the rate of \$1 per ounce or fraction thereof. If the transfer is to a person who has not registered and paid special tax under this Act, tax at the rate of \$100 per ounce or fraction thereof is due.*†

CROSS REFERENCES: For persons liable to special tax, see § 152.3. For method of registration, see § 152.4.

152.43 Method of payment. The tax is paid by attachment of adhesive stamps to order forms as hereinafter shown. Stamps of various denominations bearing the words "Marihuana Tax Act of 1937" have been prepared. Only such stamps shall be used in payment of the transfer tax. Payment for the stamps shall be made when application for the order form is submitted.*†

CROSS REFERENCE: For regulations relating to application for order forms, see §§ 152.46, 152.47.

152.44 Affixing and canceling stamps. The "Marihuana Tax Act" stamp, evidencing the payment of the transfer tax, shall be

*†For statutory and source citations, see note to § 152.1.

affixed to the original order form by the collector or his representative, and the person so affixing the stamp shall cancel it by writing or stamping thereon, in ink, his initials, and the day, month, and year, or shall, by cutting with a machine or punch, affix his initials and the date as aforesaid, in such manner as to render it unfit for re-use. The cancelation shall not so deface the stamp as to prevent its denomination and genuineness from being readily determined.*† (Sec. 7 (c), 50 Stat. 554; 26 U.S.C., Sup., 1399f (c))

152.45 Re-use of stamps prohibited. A stamp once affixed to one order form cannot lawfully be removed and affixed to another. As to refunds for amounts paid for stamps, see § 152.94.*†

ORDER FORMS

152.46 Written order required for transfer of marihuana. Except as otherwise provided, every person seeking to obtain marihuana shall make application on Form 679a (Marihuana) to the collector of internal revenue for the district in which the transferee is located for the purchase of an order form. The application shall show (a) the transferee's name, address, and, if registered, the registry number, (b) the name and address of the transferor, and (c) a description, including quantities, of the desired articles or materials to be transferred. The application must be accompanied by a certified check, cash, or money order in payment of the transfer tax (see § 152.42), plus 2 cents in payment of the order form.*† (Sec. 6, 50 Stat. 553; 26 U.S.C., Sup., 1399e)

152.47 Signing of applications. Generally applications for order forms shall be signed by the same person or persons signing the application for registration (see § 152.6). However, when it is impracticable for the person signing the application for registration to sign the applications for order forms they may be signed by another person, provided a power of attorney authorizing such other person to sign the applications for order forms has previously been filed with and approved by the collector. The power of attorney shall be executed in the same manner as applications for registration. The power of attorney shall show the signature of the person thereby authorized to sign applications for order forms and shall affirm that the signature so shown is his signature.*†

152.48 Signatures to be compared. Upon receipt by the collector of an application for an order form the signature on such application shall be compared with that appearing on the application for registration or in the power of attorney (see § 152.47). Unless the collector is satisfied that the application is authentic it will not be honored.*†

152.49 Procedure regarding order forms. Upon receipt of a properly executed application, accompanied by a sum sufficient to cover the transfer tax and the price of the order form, the collector will execute the order form in triplicate. There shall be shown on each of the three copies the date of issuance, the name and address of the proposed transferor, the name and address of the transferee, and a description, including quantities, of the desired articles or

materials. As to affixing of the tax stamp to the original order form, see § 152.44. The duplicate and triplicate shall show the date the stamp was purchased and canceled. The original and duplicate shall be delivered to the transferee, who shall in turn submit the original to the transferor. The triplicate shall be retained by the collector. The transferor shall preserve the original, and the transferee shall preserve the duplicate, for a period of 2 years so as to be readily accessible for inspection by any officer, agent, or employee mentioned in section 11 of the Act.*†

152.50 Applications to be filed. The collector will stamp each application with the date when the order form is issued, enter thereon the serial number of the order form sold in pursuance thereof, and file all applications numerically according to such serial numbers.*†

152.51 Importations. A collector of internal revenue issuing an order form for the procurement of marihuana from a foreign country shall prepare and issue to the transferee (importer) a document reciting that an order form has been issued. The document shall show the serial number of the order form, the name and address of the transferee, the name and address of the transferor, and the kind and quantity of marihuana covered by the order form. The transferee, in order to obtain release of the marihuana from customs' custody, shall present the document to the collector of customs at the port of entry. No importation of marihuana shall be released from customs' custody until the aforesaid document has been presented to the collector of customs. Seeds may be imported by a registered importer without payment of transfer tax or procurement of order forms (see section 6 (b) (5) of the Act). A registered importer desiring to import seeds without the use of order forms shall obtain from the collector of internal revenue for the district in which he is registered a certificate of registration (see § 152.68), and no importation of seeds shall be released from customs' custody without evidence of issuance of an order form or presentation of a certificate of registration.*†

EXCEPTIONS

152.52 When order forms not required. The use of order forms in effecting transfers of marihuana is not required—

(a) For dispositions to patients or for use of animals by duly qualified and registered practitioners in the course of their professional practice only.

(b) For dispositions by registered dealers pursuant to properly executed prescriptions of registered practitioners.

(c) For lawful exportations.

(d) For dispositions to exempt officials.

(e) For transfers of any seeds of the plant *Cannabis sativa* L. to any person registered under section 2 of the Act.*† (Sec. 6 (b), 50 Stat. 553; 26 U.S.C., Sup., 1399e (b))

152.53 Dispensing by practitioners. Practitioners may dispense marihuana to bona-fide patients pursuant to the legitimate practice of their professions without prescriptions or order forms.

*†For statutory and source citations, see note to § 152.1.

All persons and institutions registered as members of Class IV (practitioners, see § 152.15), whether they be physicians, dentists, veterinary surgeons, hospitals, sanatoriums, medical schools or colleges, dispensaries not connected with a Federal, State, county, or municipal institution, welfare bureaus, or charitable institutions, must keep a daily record showing the kind and quantity of marihuana dispensed or administered, the name and address of each person to whom dispensed or administered, the name and address of the person upon whose authority the marihuana is dispensed or administered, and the purpose for which it is dispensed or administered. Such records shall be kept for a period of 2 years in such manner as to be readily accessible to inspection by investigating officers.*†

CROSS REFERENCE: For tax rate classes, see § 152.10.

152.54 Form of record. No special record form will be furnished by the Government for the use of those registered as practitioners. Hospitals and institutions should keep records in the manner best calculated to meet the conditions existing therein. The record that is kept, however, should enable an inspecting officer quickly to ascertain the quantity and kind of marihuana used daily. The initials of the practitioner giving directions for the administering of marihuana should appear on the patient's record chart, or a separate prescription giving the name and address of the patient, the date, and the physician's signature or initials should be filed with the pharmacist in charge of the drug room before the marihuana leaves his charge. If both chart and prescription are used, reference to the prescription should be made on the chart.*†

152.55 Who may issue prescriptions. A prescription for marihuana may be issued only by a physician, dentist, veterinary surgeon, or other practitioner who has duly registered, or an exempt official.*†

CROSS REFERENCE: For exempt officials, see § 152.82.

152.56 Who may fill prescriptions. A prescription for marihuana may only be filled by a dealer registered in Class III or by an exempt official, or by a member of Class I who is qualified to sell marihuana at retail.*†

CROSS REFERENCE: For tax rate classes, see § 152.10.

152.57 Purpose of issue. A prescription, in order to be effective in legalizing the possession of marihuana and eliminating the necessity for use of order forms, must be issued for legitimate medical purposes.*†

152.58 Responsibility for issue. The duty of properly preparing prescriptions is upon the practitioner, and he is liable to the penalties provided by the Act in case of failure to insert the information required by the law. A prescription may be prepared by a secretary or agent for the signature of a practitioner, but the practitioner will be held responsible in case the prescription does not conform in all essential respects to the law and regulations. A corresponding liability rests upon the dealer who fills a prescription not prepared in the form prescribed by law.*†

152.59 Manner of execution. All prescriptions for marihuana must be dated as of and signed on the day when issued and must bear the full name and address of the patient and the name, address, and registry number of the practitioner. A practitioner may sign a prescription in the same manner as he would sign a check or legal document, as, for instance, J. H. Doe, John H. Doe, or John Henry Doe. Prescriptions should be written with ink or indelible pencil or typewritten; if typewritten, they should be signed by the practitioner.*†

152.60 Refilling of prescriptions. The refilling of a prescription for marihuana is prohibited.*†

152.61 Partial filling. As a general rule, the partial filling of marihuana prescriptions is unlawful. If, however, a dealer is unable to supply the full quantity called for in a prescription, he may, if an emergency exists, and he later advises the issuing practitioner, supply a portion of the marihuana called for by the prescription, provided he makes a suitable notation on the face of the prescription of the quantity furnished and a suitable explanation of the reason for not supplying the full quantity on the back of the prescription. No further quantity will be supplied except upon a new prescription.*†

152.62 Telephone orders. Except as hereinafter provided, the furnishing of marihuana pursuant to telephone advice of practitioners is prohibited whether prescriptions covering such orders are subsequently received or not. In an emergency a dealer may deliver marihuana through his employee or responsible agent pursuant to a telephone order, provided the employee or agent is supplied with a properly prepared prescription before delivery is made, such prescription to be turned over to the dealer and filed by him as required by law within a reasonable time after delivery.*†

CROSS REFERENCE: For regulations relating to filing prescriptions, see § 152.64.

152.63 Form to be used. The Government does not furnish prescription forms. Any prescription form may be used, provided it is properly executed and shows the required information.*†

152.64 Filing. Dealers who fill marihuana prescriptions are required to keep them in a separate file for a period of 2 years in such manner as to be readily accessible to inspection by investigating officers. However, if the dealer is registered under the Harrison narcotic law, as amended, as a retail dealer, and keeps marihuana prescriptions on the narcotic prescription file, it will be deemed a compliance with this section.*†

CROSS REFERENCES: For regulations under the Harrison Narcotic Law, as amended, relating to registration as a retail dealer, see § 151.18. For regulations under the Harrison Narcotic Law, as amended, relating to retail dealers, see §§ 151.166-151.187.

152.65 Labels on containers. The dealer filling a prescription must affix to the container a label showing the name and registry number of the dealer, the serial number of the prescription, the name and address of the patient, and the name, address, and registry number of the person writing the prescription.*†

*†For statutory and source citations, see note to § 152.1.

152.66 Exportations. Any person desiring to export marihuana to a country which regulates importations thereof shall present to the nearest collector of customs an application on form 161a, for authorization to make such exportation, which application shall be accompanied by an import permit issued by the government of the country of destination or other evidence which shall be satisfactory to the Commissioner of Narcotics that the applicant has complied with the requirements of the laws and regulations of the country of destination with respect to such proposed exportation thereto. Such application will be forwarded by the collector of customs to the Commissioner of Narcotics who, if satisfied that the applicant has complied with such laws and regulations of the country of destination, shall approve the application, which approval will authorize the collector of customs at the port of export to clear the shipment for exportation without the use of order forms or payment of the transfer tax.*†

152.67 Orders and prescriptions. Persons registered under the act may transfer marihuana to exempt officials pursuant to orders and prescriptions issued by such exempt officials. Such orders and prescriptions should be prepared on official blanks if such blanks are provided, or otherwise on official stationery, and must show the name, title, and official address of the person by whom executed. No order may be filled unless it is accompanied by a certificate of exemption which has been issued by the collector (see §§ 152.82–152.90).*†

152.68 Transfer of seeds. Before making transfers of unsterilized seeds, the transferor must receive from the transferee a certificate of registration showing him (the transferee) to be qualified under the act to acquire such seeds. Certificates of registration will be issued by the collector for the district in which the transferee is registered, upon request of the transferee. Records covering receipts and dispositions of such seeds must be kept in the same manner as records of other transactions in marihuana (see § 152.73).*†

SUBPART E—INFORMATION RETURNS AND RECORDS

RETURNS

152.69 Returns required of importers for other than medicinal use. Every person registered as an importer, who imports marihuana in any form for any purpose other than the manufacture of medicinal products or the distribution through wholesale or retail drug channels for medicinal use, shall render a quarterly return on form 961, and its supplement Form 961a, to the collector of internal revenue for the district on or before the 15th day of April, July, October, and January, for the quarterly periods ending March 31, June 30, September 30, and December 31, respectively. Each such return shall account for all marihuana on hand and imported, in whatever form, and all sales, exports, or other dispositions of marihuana.*†

152.70 Returns required of manufacturers and compounders for other than medicinal use. Every person registered as a manufacturer or compounder, who uses marihuana in any form in the manufacture or compounding of other than medicinal products, shall render a quarterly return on Form 961, and its supplement Form 961a,

to the collector of internal revenue for the district on or before the 15th day of April, July, October, and January, for the quarterly periods ending March 31, June 30, September 30, and December 31, respectively. Each such return shall account for all marihuana, and all marihuana products other than those specifically excepted by the Act, which are on hand, purchased, or otherwise acquired, all manufacture or compounding thereof, and all sales, exports, or other dispositions of marihuana or its products.*†

152.71 Returns required of importers, manufacturers, and compounders for medicinal use. Every person registered as an importer, manufacturer, or compounder, in Class I under the Act, who imports, purchases, or otherwise acquires marihuana or preparations containing marihuana for use in the manufacture or compounding of medicinal products or for distribution through wholesale or retail drug channels or direct to practitioners for medicinal use, shall render a monthly return on Form 810 and its supplements Forms 810a, 810b, 810c, 810d, and 811c to the collector of internal revenue for the district on or before the 15th day of the month succeeding that for which the return is rendered. Returns for marihuana and its medicinal products will be rendered on these forms in accordance with instructions appearing thereon relating to opium and coca leaves and their derivatives. All receipts of marihuana for medicinal distribution or manufacture or compounding will be reported on Form 810a, all dispositions on Form 810b, all manufacturing or compounding operations on Form 810c, all packaging operations on Form 810d, and a semiannual inventory of marihuana and preparations on hand will be rendered as of June 30 and December 31, and will be made a part of the June and December returns, respectively.

Where a person required by this section to render a return for marihuana on Form 810 and its supplements is also registered in Class 1 under the Harrison law, as amended, and renders a return under that act on these same forms, the marihuana return may be made a part of such monthly narcotic return, but separate detail sheets, Forms 810a, 810b, 810c, 810d, and 811c, must be used to report marihuana transactions. The totals of the various detail sheets of marihuana transactions will be carried to the "Other Opium Alkaloids" column of the summary, form 810.*†

CROSS REFERENCES: For tax rate classes under the Harrison Narcotic Law, as amended, see § 151.13. For tax rate classes under the Marihuana Tax Act, see § 152.10.

152.72 Returns required of producers. Every person registered as a producer of marihuana in Class II under the act shall render an annual return on form 960, to the collector of internal revenue for the district on or before the 15th day of January, for the annual period ending December 31 of the preceding years. Each such return shall show, both by the number of plots or fields and their total area, all marihuana under cultivation at the beginning of the period, planted or brought under cultivation during the period, harvested or otherwise disposed of during the period and under cultivation at the close of the period. Each such return shall also account for all bulk marihuana on hand and produced during the period, in whatever

*†For statutory and source citations, see note to § 152.1.

form, and all sales, exports, or other dispositions of marihuana during the period.

Farmers producing hemp for fiber by retting the entire crop in the field where grown, removing only the matured hemp stalks and no other part of the plant from the field will report either the quantities of such matured stalks gathered or the total fiber yield in the space provided therefor at the bottom of summary no. 1. No further accounting for such matured stalks need be made. If any part of the plant, other than such matured stalks, is removed from the field such material must be fully accounted for in summary no. 2. Producers who are also registered as manufacturers, compounders, or dealers will also render returns on the forms prescribed for manufacturers, compounders or dealers to cover transactions entered into under such registration.*†

CROSS REFERENCE: For tax rate classes, see § 152.10.

152.73 Returns required of dealers for other than medicinal use. Every person registered as a dealer in Class III under the Act, who purchases and sells or otherwise acquires and disposes of marihuana or its products for other than distribution through wholesale or retail drug channels, shall render a quarterly return on form 961, and its supplement form 961a, to the collector of internal revenue for the district on or before the 15th day of April, July, October, and January for the quarterly periods ending March 31, June 30, September 30, and December 31, respectively. Each such return shall account for all marihuana on hand and purchased, or otherwise acquired, in whatever form, and all sales, exports, or other dispositions of marihuana.*†

CROSS REFERENCE: For tax rate classes, see § 152.10.

152.74 Returns required of dealers for medicinal use. Every wholesale or retail druggist, pharmacist, or other person registered as a dealer in Class III under the Act, who purchases or otherwise acquires and sells or otherwise transfers marihuana or its preparations exclusively for medicinal purposes in any manner except pursuant to prescriptions of registered practitioners, as elsewhere authorized in these regulations, shall render a monthly return on Form 810 and its supplements Forms 810a, 810b, and 811c to the collector of internal revenue for the district on or before the 15th day of the month succeeding that for which the return is rendered. Returns for marihuana and its medicinal products will be rendered on these forms in accordance with instructions appearing thereon relating to opium and coca leaves and their derivatives. All receipts of marihuana for medicinal distribution will be reported on Form 810a, and all transfers or other dispositions on Form 810b, and a semiannual inventory of marihuana and preparations on hand will be rendered as of June 30 and December 31, and will be made a part of the June and December returns, respectively.

Where a person required by this section to render a return for marihuana on form 810 and its supplements is also registered in Class 1 under the Harrison narcotic law, as amended, and renders a return under that Act on these same forms, the marihuana return may be made a part of such monthly narcotic return, but separate

detail sheets, Forms 810a and 810b, must be used to report marihuana transactions. The totals of the various detail sheets of marihuana transactions will be carried to the "Other Opium Alkaloids" column of the summary, Form 810.*†

CROSS REFERENCES: For tax rate classes under the Harrison Narcotic Law, as amended, see § 151.13. For tax rate classes under the Marihuana Tax Act, see § 152.10.

152.75 General requirements regarding records required of registrants. The details of all marihuana imported, purchased, received, compounded, or manufactured, and all marihuana exported, sold, used in compounding or manufacture, or otherwise disposed of as reported on Form 961 shall be reported in supplemental detail sheets Form 961a, which shall be affixed to and become a part of such return. Detail sheets will be fully identified and numbered to correspond with the numbers of the summaries and lines to which they relate. The detailed report of imports shall show for each importation the name and address of the foreign consignor, the foreign port of export, the American port of import, and the kind and quantity of marihuana imported. Producers will report the details of all seeds purchased or received for planting and all marihuana exported, sold or otherwise disposed of on page 3, Form 960. The detailed report of purchases shall show for each purchase the name and address of the seller, and the kind and quantity of marihuana purchased. The detailed report of other receipts shall show for each entry full information as to the circumstances of such receipt, the name and address of the person from whom acquired, and the kind and quantity of marihuana received. The detailed report of non-medicinal marihuana products manufactured or compounded will show the date of completed manufacture or compounding and the kind and quantity of the product.

The detailed report of exports shall show in each instance the name and address of the foreign consignee, the kind and quantity of marihuana exported, the American port of export, and the foreign port of import. The detailed report of sales shall show for each sale the name, address, internal revenue collection district and registry number of the purchaser, the kind and quantity of marihuana sold, and the value of tax stamps affixed to the order form pursuant to which the sale was made. The detailed report of other dispositions shall show for each entry full information as to the disposition made of such marihuana and the kind and quantity of marihuana so disposed of. The detailed report of marihuana used in manufacture or compounding will show the kind and quantity so used, the date placed into process and the name of the product to be manufactured or compounded therefrom. Returns shall be prepared in duplicate and the duplicate retained by the registrant.*†

152.76 Returns required to be under oath. All returns required by the regulations in this part shall be rendered under oath, and shall be signed and sworn to by the registrant, if an individual, by a member of the firm, if a partnership, or by a principal officer, if a corporation. Where it is impracticable for the person interested

*†For statutory and source citations, see note to § 152.1.

to execute returns, they may be executed by another person pursuant to power of attorney prepared and filed as outlined in § 152.47.*†

RECORDS

152.77 Laboratory use. Persons who have registered and paid the tax to obtain and use in a laboratory any marihuana for the purpose of research, instruction, or analysis, are required to keep complete records relating to the receipt, disposal, and stock on hand, of all marihuana. A special record shall also be kept showing the date, the quantity and kind of marihuana used, the particular purpose or object of such use, and also showing as to the resulting product or residue, the date, quantity and kind, and manner of disposition. The Government does not furnish blanks for the keeping of this record, but it should be in a form substantially as follows:

Marihuana used				Identification and disposition of marihuana or resulting products and residues			
Date	Detailed description	Quantity	Purpose	Date	Products or residues	Quantity	Disposition

*†

CROSS REFERENCE: For registration and tax on marihuana for laboratory use, see § 152.16.

GENERAL PROVISIONS

152.78 Records and returns to be retained. All order forms, duplicate forms, prescription records, returns, and inventories required to be kept on file by the taxpayer shall be retained and available for inspection for a period of not less than 2 years.*†

152.79 Special reports. Statements pursuant to section 10 (b) of the Act will be rendered on Form 680 in the manner and at the time requested by the collector of internal revenue.*†

152.80 Examining records. Any officer, agent, or employee of the Treasury Department authorized to enforce the Act, and any officer of any State, Territory, the District of Columbia, or insular possession of the United States charged with the enforcement of any law or municipal ordinance relating to the traffic in marihuana, shall have authority to examine the books, papers, and records kept pursuant to the regulations in this part, and may require the production thereof.*†

152.81 Records open to inspection. All order forms, duplicate forms, prescription records, returns, and inventories required under the Act or the regulations in this part to be kept on file must be kept so that they can be readily inspected.*†

SUBPART F—SPECIAL EXEMPTIONS

EXEMPT OFFICIALS

152.82 Exempt officials. Officials of the United States, the District of Columbia, any State, Territory, or insular possession of the United States, or of any county, municipality, or other political subdivision therein, who, in the exercise of their official duties, acquire, dispense, or handle marihuana, are not thereby required to register or pay special tax, but their right to such exemption shall be evidenced as hereinafter provided.*†

152.83 Military and naval officers. The Surgeon General of the Army and the Surgeon General of the Navy will respectively furnish to the Commissioner of Internal Revenue lists showing the names, addresses, and official status of all officers and contract surgeons authorized to obtain marihuana for official use. Quarterly amendatory lists showing additions to, eliminations from, or other changes to be made in previous lists shall also be furnished. The commanding officer of the National Guard of each State will likewise furnish original and amendatory lists to each collector of such State, similarly identifying the officers authorized to procure marihuana. With respect to procurement of marihuana by officers of the character indicated, see § 152.85.*†

152.84 Civil officers. Each civil officer of the United States, or the District of Columbia, or of any State, Territory, or insular possession of the United States, or any county, municipality, or other political subdivision, claiming exemption from registration and tax under the act, must file with the collector for the district in which he is located a certificate from a superior official showing the official status and official address of the person claiming exemption and (a) whether he is to purchase the marihuana or obtain it from official stocks, and (b) whether or not the officer is to administer or dispense marihuana. Each such statement must be renewed on or before July 1 of each year.*†

152.85 Procurement of marihuana. Each order for the purchase of marihuana by an exempt official must be accompanied by a certificate, issued by the collector for the district in which the purchasing official is located, on official stationery in the following form:

(Name)	(Rank or official capacity)
(Post of duty or official address)	
has evidenced his exemption from registration and payment of taxes under the Marihuana Tax Act of 1937, in the manner prescribed by the Commissioner of Narcotics, with the approval of the Secretary of the Treasury, and is entitled to purchase marihuana without the use of official order forms for the use of	

(Name of government and department thereof)

Certificates in accordance with the foregoing form will be issued by the collectors upon request but no certificate may be issued for any officer or official unless the list or statement on file indicates that such officer or official is required to purchase marihuana.

*†For statutory and source citations, see note to § 152.1.

If an official is engaged in a private business or privately practices a profession in which marihuana is imported, manufactured, produced, compounded, sold, dealt in, dispensed, prescribed, administered, or given away, such official must register and pay the special tax for such private activity, and the marihuana for such private purposes must be secured upon regular order forms.*† (Sec. 3, 50 Stat. 552; 26 U.S.C., Sup., 1399b)

152.86 Enforcement officers. Special agents and customs agents, for the establishment of draw-back under customs laws and regulations, inspectors of the Food, Drug, and Insecticide Administration, Department of Agriculture, in connection with their duties in enforcing the Food and Drugs Act, and State or Federal officials engaged in their duties in enforcing any State or Federal marihuana law, are entitled to procure from any person registered under the Marihuana Tax Act of 1937, samples of marihuana, and registrants may lawfully furnish to any such persons for the purposes stated, the required samples, taking a receipt therefor, which shall be filed with their official order forms and records.*†

CROSS REFERENCES: For regulations relating to drawback under the Bureau of Customs, see 19 CFR Part 20. For regulations under Federal Food and Drugs Act, see 21 CFR Part 1. For regulations under the Federal Insecticide Act, see 21 CFR Part 180.

TRANSFER PROCEDURE BY OFFICIALS

152.87 Orders and prescriptions. Orders and prescriptions issued by exempt officials as such for marihuana should be prepared on official blanks if such blanks are provided, or otherwise on official stationery, and must show the name, title, and official address of the person by whom executed.*†

152.88 Filling and filing orders and prescriptions. An order issued for marihuana by an exempt official as such may be filled only by a person registered as an importer, manufacturer, compounder, producer, or dealer. Prescriptions of like issue may be filled only by retail druggists registered as dealers or by manufacturers supplying thereon marihuana of their own manufacture or compounding. Any registrant who fills an improperly prepared order or prescription may be charged with violation of section 6 of the Act. Orders and prescriptions of exempt officials should, when filled, be filed with the regular marihuana orders and prescriptions otherwise required.*†

TRANSFERS TO PUERTO RICO AND THE VIRGIN ISLANDS

CROSS REFERENCE: For regulations making certain provisions of the Marihuana Tax Act of 1937 effective in the Virgin Islands: See Territories and insular possessions, 48 CFR Chapter I.

152.89 Transfers to be made pursuant to orders. No person in the continental United States may transfer marihuana to a person in Puerto Rico or in the Virgin Islands, except pursuant to an order form, bearing appropriate transfer tax stamp, issued by the appropriate officers in those Territories. The transfer or other disposition of marihuana by any person in the continental United States to any

person in Puerto Rico or in the Virgin Islands otherwise than as above described, shall subject the offending party or parties to the penalties provided by the Marihuana Tax of 1937 (see § 152.102).^{*†} (Sec. 15, 50 Stat. 556; 26 U.S.C., Sup., 1399n; E. O. 7715, Sept. 26, 1937, 2 F.R. 2008)

152.90 Record of transfers required. Each transfer or other disposition of marihuana to persons in Puerto Rico or the Virgin Islands shall be recorded and reported by the transferor in the same manner as a transfer within the continental United States.^{*†}

SUBPART G—ADMINISTRATIVE PROVISIONS

ASSESSMENT OF TAX

152.91 Assessment of taxes not paid by stamp. Tax due on the transfer of marihuana not paid by attachment of stamps to order forms shall be reported for assessment. Special tax which the taxpayer refuses or fails to pay may likewise be reported for assessment.^{*†} (R.S. 3182; 26 U.S.C. 1530)

CROSS REFERENCE: For payment of tax by attachment of stamps, see § 152.43.

152.92 Jeopardy assessment. (a) Whenever, in the opinion of the collector, the collection of the tax will be jeopardized by delay, he should report the matter promptly to the Commissioner by telegram or letter. The communication should recite the full name and address of the person involved, the kind and amount of taxes, the period involved, and such statement of the circumstances and recommendation as will enable the Commissioner immediately to determine and assess the tax due, together with all penalties.

(b) If a jeopardy assessment is made, the taxpayer may stay the collection of the tax by filing with the collector a bond in such amount, not exceeding double the amount of the tax, and with such sureties, as the collector deems necessary, conditioned upon the payment of the tax at the usual time. In lieu of surety or sureties the taxpayer may deposit with the collector United States Liberty bonds or other bonds or notes of the United States having a par value not less than the amount of the bond required to be furnished, together with an agreement authorizing the collector to sell or collect such bonds or notes so deposited in case of default.^{*†} (Sec. 510, 48 Stat. 758; 26 U.S.C. 1550)

CROSS REFERENCE: For Public Debt Service regulations relating to bonds, notes, and other obligations of the United States, see 31 CFR Chapter III.

152.93 Payment by check. (a) Collectors may receive uncertified checks in payment of assessments (but not in payment for stamps), if such checks are collectible at par—that is, for their full amount, without deduction for exchange or other charges. The collector will stamp on the face of each check before deposit the words “This check is in payment of an obligation to the United States and must be paid at par. No protest.”, with his name and title.

(b) If the bank upon which any such check is drawn should, for any reason, refuse to pay it at par, the check should be returned

^{*†}For statutory and source citations, see note to § 152.1.

through the depository bank and treated as a dishonored check. All expenses incident to the attempt to collect such check and the return of it through the depository bank must be borne by the drawer, since no deduction can be made from amounts received in payment of taxes. Unless the taxpayer whose check has been returned uncollected by the depository bank makes the check good immediately, or pays the amount thereof, the collector should proceed to collect the tax as though no check had been given. A taxpayer who tenders a check, whether certified or not, in payment of taxes, is not released from his obligation until the check had been paid.*† (Sec. 1118 (a), 44 Stat. 120; 26 U.S.C. 1546 (b), 1547)

152.94 Claims. Amounts paid for stamps used in excess, or on instruments not actually effective, may be refunded, upon claim properly presented to the collector. All claims for the redemption of or allowance for stamps must be presented to the collector on form 843 within 4 years after the purchase of said stamps from the Government. In filing a claim for the redemption of or allowance for stamps covering the tax on the transfer of marihuana, the stamps involved shall be submitted therewith, or if it is impracticable to submit the stamps, they shall be presented to a deputy collector or other internal-revenue representative, who shall write on the face of the stamps the words "Claim for refund filed" and a statement from such internal-revenue representative shall be furnished showing that such endorsement has been made. The claim shall be forwarded to the collector of internal revenue for the district in which the taxpayer is located who shall certify as to the date the stamps were purchased. The provisions of sections 3220 to 3228, United States Revised Statutes (26 U.S.C. 1670, 1676, 1275, 1543, 1672, 1433) do not apply to the redemption of or allowance for internal-revenue stamps, and the authority for such redemption or allowance is the Act of May 12, 1900 (31 Stat. 177), as amended by section 1013 (a) of the Revenue Act of 1924 (43 Stat. 343; 26 U.S.C. 1424).*†

152.95 Refunds. As indicated hereinbefore, the transfer tax is ordinarily paid by the purchase and affixing of stamps, while special-tax stamps are issued in payment of special taxes. However, in exceptional cases, such taxes may be paid pursuant to assessment. Claims for refund of amounts so paid by assessment are governed by sections 3220 and 3228, United States Revised Statutes (26 U.S.C. 1670, 1676, 1433), as amended. Such claims must be presented within 4 years next after payment of the taxes.*†

CROSS REFERENCES: For issuance of stamps for special taxes, see § 152.38. For method of payment of transfer tax, see § 152.43.

MISCELLANEOUS

152.96 Safeguarding of marihuana. Marihuana must at all times be securely kept and properly safeguarded where it will be available for inspection by properly authorized officers, agents, and employees of the Treasury Department.*†

152.97 Procedure with reference to losses. Where, through breakage of the container or other accident, otherwise than in transit between transferor and transferee, marihuana is lost or destroyed, the person having title thereto shall make affidavit as to the kind and quantity of the marihuana items lost or destroyed and the circumstances involved, and immediately forward the affidavit to the narcotic district supervisor. A copy of such affidavit shall be retained and filed with the other marihuana records.

Where marihuana is lost by theft, or otherwise lost or destroyed in transit between transferor and transferee, a sworn statement of the facts, including a list of marihuana items stolen, lost, or destroyed, and documentary evidence that the local authorities were notified, shall immediately upon ascertainment of the occurrence be filed with the narcotic district supervisor by the consignee. A copy of the sworn statement shall be retained and filed with the other marihuana records of the consignee.

In case of loss in transit the transferor is not authorized to make good the loss by duplicating the shipment on the same order form. A separate order form covering each and every shipment of marihuana is required. But see § 152.94 as to claims for redemption of stamps unnecessarily used.*†

152.98 Procedure on discontinuance of business. Where it is desired to discontinue business the taxpayer should, before the discontinuance, dispose of all marihuana on hand. Where the discontinuance occurs on any date other than June 30 the special-tax stamp or stamps should be returned to the collector who will mark each such stamp "Business discontinued" with the date, and return the stamp to the taxpayer who shall file it with his marihuana records and retain it for a period of 2 years. The rendering of returns subsequent to the date of discontinuance will not be demanded, provided all marihuana has been accounted for and an affidavit is submitted in duplicate to the collector certifying that no further transactions of that class will be consummated. One copy of this affidavit will be forwarded to the Commissioner of Narcotics. Before business is discontinued the marihuana on hand may be disposed of either pursuant to an order form or to an exempt official, or by shipment to the narcotic district supervisor of the district, as provided in the following paragraphs for the disposition of excess, undesirable, or useless stock.

Excess, undesirable, or useless marihuana in the possession of a registered person may be disposed of by shipment, charges prepaid, to the narcotic district supervisor of the district. If the person has paid tax in a class under which returns are required to be rendered and the marihuana to be disposed of is a part of the stock for such class, an inventory of the marihuana shipped must be prepared in triplicate on the form used for detailed reporting of dispositions. The original inventory must be filed with the return for such class for the period in which the disposition takes place, the duplicate copy to be made a part of the retained copy of the return and the triplicate copy to be forwarded with the marihuana when shipped for disposition. If the marihuana is stock with respect to which

*†For statutory and source citations, see note to § 152.1.

returns are not required, an inventory shall be prepared in quadruplicate on Form 142, the duplicate of which shall be forwarded with the marihuana when shipped and the triplicate retained on file by the taxpayer for a period of 2 years. The shipper shall notify the narcotic district supervisor, advising of the size and description of the container in which the marihuana is being forwarded, and enclosing the original and quadruplicate copy of the inventory which has been prepared.

The narcotic district supervisor will retain the quadruplicate copy of Form 142 in his file and forward the original to the Commissioner of Narcotics.*†

FORFEITURES AND PENALTIES

152.99 Disposition of forfeited marihuana. Marihuana forfeited to the United States under these provisions of the law may be delivered to any department, bureau, or other agency of the United States Government upon proper application addressed to the Commissioner of Narcotics. The application shall show the name, address, and official title, bureau, or agency, and department, of the person to whom the marihuana is to be delivered, the kind and quantity of marihuana desired, and the purpose for which intended. The delivery of such marihuana shall be ordered by the Commissioner of Narcotics if, in his opinion, there exists a medical or scientific need therefor. The order will be filled by the Drugs Disposal Committee which will obtain a receipt for marihuana delivered.*† (Sec. 9, 50 Stat. 555; 26 U.S.C., Sup., 1399h)

152.100 Court sales. Court officers in making sales of marihuana under judicial proceedings shall require the purchaser thereof, if other than an exempt official, who must be a registered person, to furnish order forms for such sales or transfers.*†

152.101 List of taxpayers. The list of marihuana special-tax payers required by section 3240 of the United States Revised Statutes (26 U.S.C. 1406), as amended, shall be kept on Record 10, and may be inspected and copied in the collector's office at such reasonable and proper times as not to interfere with the collector's use of it, or exclude other persons from inspecting it.*†

152.102 Specific penalty. Persons who violate the Act or fail to fulfill its requirements in any particular are liable to punishment, the maximum liability being to a fine of not more than \$2,000 or imprisonment of not more than 5 years, or both, for each offense.*†

152.103 Correspondence. Correspondence relative to interpretation of the law and the regulations in this part may be addressed to the Commissioner of Narcotics, Washington, D. C. Inquiries relative to registration and requests for blank forms should be addressed to the various collectors of internal revenue. All remittances should be sent to the local collector of internal revenue. Correspondence regarding charges of violations of the law or regulations should be addressed to the narcotic district supervisor in charge of the proper district.*†

152.104 Effective date. The regulations in this part shall take effect and be in force on and after October 1, 1937.*†