



Billing Code 3410-05-P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Tobacco Transition Program; Final Assessment Procedures

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: This notice provides information about the final quarterly assessments for the Tobacco Transition Program (TTP). Through the Tobacco Transition Payment Program (TTPP), which is part of the TTP, eligible former tobacco quota holders and tobacco producers receive payments in 10 annual installments in fiscal years (FY) 2005 through 2014. To fund TTPP, the Commodity Credit Corporation (CCC) collects quarterly assessments from domestic manufacturers and importers of tobacco products. As specified in the Fair and Equitable Tobacco Reform Act of 2004 (FETRA), the Secretary must ensure the final assessment is collected no later than September 30, 2014. Also, as specified in the TTP regulations, the final two calendar quarterly payments are both due to CCC on September 30, 2014. This notice provides information about the final monthly reporting date by domestic manufacturers and importers, the final date for revisions of volume or tax data by domestic manufacturers and importers of tobacco products, and other information about how the assessment part of TTP will be operated in the final months. TTP will continue to operate as specified in existing regulations, which are not changing with this notice.

DATES: Effective **[Insert date of publication in the FEDERAL REGISTER]**.

ADDRESSES: USDA Farm Service Agency, Economic and Policy Analysis Staff, 1400 Independence Ave SW Room 3722-S, STOP 0515, Washington DC 20250-0515.

FOR FURTHER INFORMATION CONTACT: Darlene Soto; telephone: (202)720-0542. Persons with disabilities who require alternative means for communications (Braille, large print, audio tape, etc.) should contact the USDA Target Center at (202)720-2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Background

The TTP regulations are located in 7 CFR part 1463; TTP was authorized by Title VI of the American Jobs Creation Act of 2004 (Pub. L. 108–357). Title VI is also known as FETRA (7 U.S.C. 518 – 519a). FETRA repealed the tobacco marketing quota and related price support programs authorized by Title III of the Agricultural Adjustment Act of 1938 and by the Agricultural Act of 1949 and provides for payments to persons who were owners of farms with tobacco quotas (referred to as tobacco quota holders), or who produced regulated tobacco. As specified in FETRA, TTP is funded using assessments collected quarterly from domestic tobacco manufacturers and importers.

This notice provides the following information, for domestic manufacturers and importers of tobacco products, about the conclusion of the TTP:

- Issuance of the final quarterly TTP assessment invoice,
- Final monthly reports (including final revisions of individual monthly reports),
- Final revisions of quarterly assessment calculations,
- Calculation of CCC estimated interest and actual daily net interest in calendar year 2014,
- Penalty calculations for calendar year 2014,

- Appeals or disputes, and
- Archiving of TTP assessment documents.

Issuance of Final Quarterly TTP Assessment Invoice

The 40th quarterly assessment (quarter ending December 2014 assessment) will be the final TTP assessment. FETRA and the TTP regulations in 7 CFR 1463.9(c) specify that the last assessment payment must be sent to CCC by September 30, 2014. CCC will issue the 40th (final) quarterly assessment invoice on September 1, 2014, along with the 39th quarterly assessment. Consequently, no assessment invoice will be issued in December 2014. Section 625(d)(3)(A) of FETRA specifies that the Secretary must ensure that the final assessment is collected no later than September 30, 2014, and the TTP regulations in 7 CFR 1463.8(b) specify that manufacturers and importers will receive the assessment invoice for each quarter 30 calendar days before the end of the quarter. For these reasons, as noted above, the final assessment notification must be no later than September 1, 2014.

The adjusted market share for the 39th and 40th quarterly assessment payments due on September 30, 2014, will be based on the assessed entity's market activity during April 1 to June 30, 2014. The 40th quarterly assessment will be initially determined by using the same adjusted market share of an entity that was used to determine the 39th quarterly assessment; this is the “original” adjusted market share for the 40th quarterly assessment (see below for information on revisions to quarterly assessments). Adjusted market share is the market share of a domestic manufacturer or domestic importer of tobacco products adjusted to reflect such entity's share of a class of tobacco during the immediately preceding calendar year quarter.

Final Individual Entity Monthly Reports

The final TTP monthly report (Tobacco Products Subject to Tax for the Tobacco Transition Assessment Program) for September 2014 will be due to CCC no later than October 20, 2014. The monthly reporting requirements are described in 7 CFR 1463.6, “Determination of Persons Liable for Payment of Assessments.” The reporting requirements for the final report are the same as for previous months of TTP, which are specified in the regulations.

In the event of an error on any monthly tobacco report submitted to CCC in 2014, tobacco manufacturers or importers may submit corrected or revised reports up to the final date of November 30, 2014. After this date, no revisions will be accepted.

Final Revisions of 2014 Quarterly Assessment Calculations

As noted above, the original adjusted market shares for the 40th (final) quarterly assessment payment, which is due to CCC on September 30, 2014, will be identical to the market shares used for the 39th quarterly assessment.

Revised quarterly assessments for 2014 will be issued no later than June 1, 2015. The process is as follows. First, CCC will revise the December 2014 adjusted market shares to reflect actual removals, using monthly reports submitted by domestic tobacco manufacturers and importers for July through September 2014, and issue a revised December 2014 assessment. Next, CCC will further revise all 4 quarters of 2014 based on the actual program costs and actual interest for 2014, any revisions to any monthly tobacco reports, and will include tax and volume data received from domestic tobacco

manufacturers and importers not included in previous assessment calculations (such as late reports and tax and volume data from the U.S. Department of Treasury's Alcohol and Tobacco Tax and Trade Bureau and the U.S. Department of Homeland Security's Customs and Border Protection for nonreporting entities).

Calculation of CCC Estimated Interest Costs for 2014

Though the majority of TTPP annual payments to eligible former tobacco quota holders and producers are made in January of each year, the assessment payments are not collected until March 30th, June 30th, September 30th, and December 30th. Therefore, CCC borrows funds, upfront, from the U.S. Treasury to cover these payments.

Accordingly, CCC's estimated interest costs are included in the quarterly assessments.

Due to the fact that the final assessment will be collected on September 30, 2014, the calculation formula for CCC's estimated interest costs will be slightly different for 2014. At the beginning of each calendar year, CCC estimates the amount of interest that will be incurred. At the end of the calendar year, CCC revises these estimates to reflect actual daily net interest, and provides revised quarterly assessments for the entire previous fiscal year. The following paragraphs explain how these calculations will be made for 2014.

The Example of Estimated Interest Computation table below shows how CCC will compute estimated quarterly interest in 2014, using an example interest rate of 0.125 percent. The actual interest rate may be higher or lower than 0.125 percent; CCC's interest borrowing rate from the United States Treasury for 2014 will be published by the USDA Farm Service Agency in January 2014 and will be available from the following

webpage:

<http://www.fsa.usda.gov/FSA/webapp?area=about&subject=landing&topic=sao-cc-cr>.

The key element the table below shows is how the estimated interest will be calculated for the final 2 quarters of calendar year 2014. In the example shown, if interest rates are 0.125 percent, CCC interest rate costs will be approximately \$75,000 less than if the 40th payment were due December 30, 2014. The table shows the overall calculations at the national level, with the estimated national assessment divided for the four estimated quarterly assessments.

Example of Quarterly Estimated Interest Computation for 2014

a. Estimated Quarterly Assessment Payment Due Date	b. Estimated Annual Interest Rate (%)	c. Rounded Daily Interest Rate (%)	d. Estimated Remaining Balance Due of the National Assessment	e. Estimated Quarterly National Assessment	f. Days of Interest to be Calculated	g. Rounded Interest Due (Interest Started on January 15)	h. Total Estimated Quarterly Assessment
Standard interest calculation for first 2 quarters:							
30-Mar-14	0.125	0.000342	\$956,000,000	\$239,000,000	75	\$245,214.00	\$239,245,214.00
30-Jun-14	0.125	0.000342	\$717,000,000	\$239,000,000	92	\$225,596.88	\$239,225,596.88
Interest calculation for 3rd quarter:							
	0.125	0.000342	\$478,000,000	\$239,000,000	92	\$150,397.92	
Interest spread from 3rd quarter over 3rd and 4th quarter assessments:							
30-Sep-14	0.125	0.000342	\$478,000,000	\$239,000,000		\$75,198.96	\$239,075,198.96
30-Sep-14	0.125	0.000342	\$239,000,000	\$239,000,000		\$75,198.96	\$239,075,198.96

NOTE: The table shows the calculations at the National level. The first 2 rows show the first 2 quarterly assessments of calendar year 2014. The last 2 rows show the calculations for the last 2 quarterly assessments for calendar year 2014. As specified in CCC regulations (7 CFR 1463.9(c)), the last 2 assessments payments will be due September 30, 2014. The table shows how CCC will adjust the interest calculations for the last 2 quarterly assessments.

Column a is the Estimated Quarterly Assessment Payment Due Date.

Column b shows the sample estimate of 0.125 percent for the U.S. Department of Agriculture's CCC borrowing rate.

Column c is the annual interest rate divided by the days in a year (Column a divided by 365)

Column d is the estimated total National Assessment remaining balance at the beginning of each quarter.

Column e is the estimated total annual National Assessment of \$956M divided equally into four quarterly assessments.

Column f is the computation for the number of days since last payment due. Assessments are billed one quarter after the assessed activities took place. For example, the quarterly assessments due on March 30, 2014 are for the time period October 1 through December 31, 2013. The Estimated Interest Computation for "Days of Interest to be Calculated" is calculated with:

- Quarter 1 beginning on January 15th of each year and running through March 30. That equates to 75 days of interest to be calculated for the 1st quarter of FY 2014.
- Quarter 2 runs from April 1 through June 30, which equals 92 days.
- Quarter 3 runs from July 1 through September 30, which equals 92 days.
- The program ends on September 30, 2014; therefore, no estimated interest will be calculated past that date.

Column g is the Daily Interest Rate times the Remaining Balance Due of the Estimated National Assessment times Days of Interest to be Calculated (column c times column d times column f; the calculation is rounded to 8 decimals) for the first 3 quarters. The estimated assessments for the last 2 rows spread the 3rd quarter calculated interest over the 2 assessments as explained below.

- For the last two quarters of calendar year 2014, the interest will be calculated differently than for previous years because the last two payments will both be due September 30, 2014. CCC's estimated interest costs for calendar year 2014 will be lower than if the 40th payment were due in December, because CCC will not have any estimated interest costs after September 30, 2014.
- In the example shown, if interest rates are 0.125%, CCC interest rate costs will be approximately \$75,000 less than if the 40th payment were due December 30, 2014.
- The Q3 interest will be split across the last two quarters (the 39th and 40th assessments).

Column h is the Total Quarterly Assessment, which includes interest that CCC must pay for borrowing funds.

In order to provide quarterly revised -- or true -- assessments, CCC will recalculate the estimated interest based on the daily net interest for the calendar year, as well as determine the final payment amount dispersed to tobacco quota holders and producers of tobacco. After each FY closes, CCC runs a query against the accounting system to retrieve the daily TTPP disbursements paid to former tobacco quota holders and producers throughout the year. Next, CCC calculates the cumulative daily disbursements and reduces the cumulative quarterly tobacco assessments from that activity. CCC computes daily interest against the net value of the disbursements minus the assessments. Daily interest is based on the CCC's borrowing rate from the U.S. Treasury as of January 1.

Although the last assessment payment of TTP is due on September 30, 2014, the total net interest calculations based on actual interest will include the daily net interest through December 31, 2014.

Penalty Calculations for 2014

Penalties will be issued to any manufacturer or importer that fails to submit monthly reports to CCC for any month during October 2013 through September 2014. The penalties for the failure to submit monthly tobacco reports and supporting

documentation, providing false reports, or providing late reports (after the deadline of October 20, 2014) will be determined by CCC in accordance with 7 CFR 1463.10.

Appeals or Disputes

If a manufacturer or importer wishes to appeal its 39th estimated quarterly assessment (which, as noted above, will also be used as the 40th quarterly assessment), a written statement must be submitted to CCC within 30 business days from the date the manufacturer or importer received the assessment notification. CCC mails out its assessment notices several days before the end of the month; absent evidence to the contrary, the date the assessment notification was received will be deemed September 2, 2014. As a result, the deadline for appeals will be October 14, 2014, or 30 business days after actual receipt of the notice, whichever is later.

If a manufacturer or importer wishes to appeal its revised -- or true -- 2014 quarterly assessments, it must submit a written statement within 30 business days from the date the manufacturer or importer received its revised assessment notification. Absent evidence to the contrary, the date the revised assessment notification was received will be deemed June 1, 2015. As a result, the deadline for appeals will be July 13, 2015, or 30 business days after actual receipt of the notice, whichever is later.

Appeals of TTP assessments and penalties must be made in accordance with the provisions of 7 CFR 1463.11, except as regarding the address for submission of appeals, as noted above.

Archiving of TTP Assessment Documents

CCC will archive all records related to the assessment portion of TTP at a Federal Records Center. CCC will archive FY 2014 tobacco records on or about December 30, 2015.

Signed on July 29, 2013

Juan M. Garcia
Administrator,
Farm Service Agency, and
Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 2013-18671 Filed 08/01/2013 at 8:45 am; Publication Date: 08/02/2013]