

## § 194.4

beer to other dealers is required by regulations in in Part 1 of this chapter to obtain a basic permit authorizing him to engage in such business.

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55843, Sept. 28, 1979]

### § 194.4 Relation to State and municipal law.

The payment of any tax imposed by 26 U.S.C. Chapter 51, for carrying on any trade or business specified in §194.1 shall not be held to exempt any person from any penalty or punishment provided by the laws of any State for carrying on such trade or business within such State, or in any manner to authorize the commencement or continuance of such trade or business contrary to the laws of such State or in places prohibited by municipal law; nor shall the payment of any such tax be held to prohibit any State from placing a duty or tax on the same trade or business, for State or other purposes.

(72 Stat. 1348; 26 U.S.C. 5145)

[T.D. 7130, 36 FR 12852, July 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55843, Sept. 28, 1979]

## Subpart B—Definitions

### § 194.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms “includes” and “including” do not exclude things not enumerated which are in the same general class.

**ATF Officer.** An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

**Beer.** Beer, ale, porter, stout, and other similar fermented beverages (including sake or similar products) of any name or description containing one-half of 1 percent or more of alcohol

## 27 CFR Ch. I (4–1–02 Edition)

by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor.

**Bonded wine cellar.** An establishment qualified under this chapter for the production, blending, cellar treatment, storage, bottling, and packaging or re-packaging of untaxpaid wine.

**Brewery.** An establishment qualified under this chapter for the production of beer.

**CFR.** The Code of Federal Regulations.

**Dealer.** Any person who sells, or offers for sale, any distilled spirits, wines, or beer.

**Denatured spirits or denatured alcohol.** Spirits to which denaturants have been added as prescribed under this chapter.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, DC.

**Director of the service center.** A director of an internal revenue service center.

**Distilled spirits or spirits.** That substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof, from whatever source or by whatever process produced.

**Distilled spirits plant.** An establishment qualified under Part 19 of this chapter for the production, storage or processing of distilled spirits.

**District director.** A district director of internal revenue.

**Fiscal year.** The period from October 1 of one calendar year through September 30 of the following year.

**Gallon or wine gallon.** A United States gallon of liquid measure equivalent to the volume of 231 cubic inches.

**Liquor bottle.** A bottle made of glass or earthenware, or of other suitable material approved by the Food and Drug Administration, which has been designed or is intended for use as a container for distilled spirits for sale for beverage purposes and which has been determined by the Director to adequately protect the revenue.

**Liquors.** Distilled spirits, wines, or beer.

**Liter.** A metric unit of capacity equal to 1,000 cubic centimeters of alcoholic beverage, and equivalent to 33.814 fluid

ounces. A liter is divided into 1,000 milliliters. Milliliter or milliliters may be abbreviated as "ml".

*Person.* An individual, a trust, estate, partnership, association or other unincorporated organization, fiduciary, company, or corporation, or the District of Columbia, a State, or a political subdivision thereof (including a city, county, or other municipality).

*Place, or place of business.* The entire office, plant, or area of the business in any one location under the same proprietorship; and passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises shall not be deemed a separation for special tax purposes, if the various divisions are otherwise contiguous.

*Reclaim.* To grind up a liquor bottle or container and use the ground up material to make products other than liquor bottles or containers.

*Recycle.* To grind up a liquor bottle or container and use the ground up material to make new liquor bottles or containers.

*Regional director (compliance).* The principal ATF regional official responsible for administering regulations in this part.

*Sale at retail or retail sale.* Sale of liquors to a person other than a dealer.

*Sale at wholesale or wholesale sale.* Sale of liquors to a dealer.

*Special tax.* The occupational tax imposed on a dealer in liquors or a dealer in beer.

*Tax year.* The period from July 1 of one calendar year through June 30 of the following year.

*U.S.C.* The United States Code.

*Wine.* When used without qualification, the term includes every kind (class and type) of product produced on bonded wine premises from grapes, other fruit (including berries), or other suitable agricultural products and containing not more than 24 percent of alcohol by volume. The term includes all imitation, other than standard, or artificial wine and compounds sold as wine. A wine product containing less than one-half of one percent alcohol by vol-

ume is not taxable as wine when removed from the bonded wine premises.

(26 U.S.C. 7805 (68A Stat. 917, as amended) 27 U.S.C. 205 (49 Stat. 981, as amended))

[T.D. ATF-48, 43 FR 13541, Mar. 31, 1978, as amended by T.D. ATF-50, 43 FR 37180, Aug. 22, 1978; 44 FR 55843, Sept. 28, 1979; T.D. ATF-62, 44 FR 71693, Dec. 11, 1979; T.D. ATF-114, 47 FR 43949, Oct. 5, 1982; T.D. ATF-344, 58 FR 40355, July 28, 1993]

### Subpart C—Special (Occupational) Taxes

#### § 194.21 Basis of tax.

Special taxes are imposed on persons engaging in or carrying on the business or occupation of selling or offering for sale alcoholic liquors fit for use as a beverage or any alcoholic liquors sold for use as a beverage. The classes of liquor dealer business on which special occupational tax is imposed and the conditions under which such tax is incurred are specified in §§ 194.23 through 194.26. No person shall engage in any business on which the special tax is imposed until he has filed a special tax return as provided in § 194.26 of this part and paid the special tax for such business.

(72 Stat. 1346; 26 U.S.C. 5142)

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-271, 53 FR 17552, May 17, 1988]

#### § 194.22 Selling or offering for sale.

Whether the activities of any person constitute engaging in the business of selling or offering for sale is to be determined by the facts in each case, but any course of selling or offering for sale, though to a restricted class of persons or without a view to profit, is within the meaning of the statute.

#### DEALERS CLASSIFIED

#### § 194.23 Retail dealer in liquors.

(a) *General.* Every person who sells or offers for sale distilled spirits, wines, or beer to any person other than a dealer is, except as provided in paragraph (b) of this section, a retail dealer in liquors. Every retail dealer in liquors shall pay special tax at the rate