

brought into the United States free of tax;

(b) The collection of internal revenue taxes on taxable alcoholic products coming into the United States from Puerto Rico and the Virgin Islands;

(c) The transfer, without payment of tax, of Puerto Rican and Virgin Islands spirits in bulk containers or by pipeline from customs custody to the bonded premises of a distilled spirits plant qualified under part 19 of this chapter;

(d) The deposit of the distilled spirits excise taxes, limited to the lesser of \$10.50 or the rate in section 5001(a)(1) per proof gallon, into the Treasuries of Puerto Rico and the Virgin Islands on all articles containing distilled spirits as defined in section 7652, produced by those two U.S. possessions, and transported into the United States (less certain amounts); and

(e) The deposit of the distilled spirits excise taxes, limited to the lesser of \$10.50 or the rate in section 5001(a)(1) per proof gallon, into the Treasuries of Puerto Rico and the Virgin Islands on all rum imported into the United States (including rum from possessions other than Puerto Rico and the Virgin Islands), less certain amounts.

(Approved by the Office of Management and Budget under control number 1512-0277)

(Sec. 221, Pub. L. 98-67, 97 Stat. 369 (26 U.S.C. 7652))

[T.D. ATF-175, 49 FR 20803, May 16, 1984, as amended by T.D. ATF-203, 50 FR 15887, Apr. 23, 1985. Redesignated by T.D. ATF-459, 66 FR 38550, July 25, 2001]

### § 26.2 Forms prescribed.

(a) The appropriate ATF officer is authorized to prescribe all forms required by this part, including applications, reports, returns, and records. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part. The form will be filed in accordance with the instructions for the form.

(b) Forms may be requested from the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150-5950, or

by accessing the ATF web site (<http://www.atf.treas.gov/>).

(5 U.S.C. 552(a) (80 Stat. 383, as amended))

[T.D. ATF-92, 46 FR 46920, Sept. 23, 1981, as amended by T.D. ATF-249, 52 FR 5963, Feb. 27, 1987; T.D. ATF-372, 41 FR 20725, May 8, 1996; T.D. ATF-451, 66 FR 21668, May 1, 2001. Redesignated by T.D. ATF-459, 66 FR 38550, July 25, 2001]

### § 26.3 Delegations of the Director.

All of the regulatory authorities of the Director contained in this part 26 are delegated to appropriate ATF officers. These ATF officers are specified in ATF Order 1130.29, Delegation Order—Delegation of the Director's Authorities in 27 CFR part 26, Liquors and Articles from Puerto Rico and the Virgin Islands. ATF delegation orders, such as ATF Order 1130.29, are available to any interested person by mailing a request to the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150-5950, or by accessing the ATF web site (<http://www.atf.treas.gov/>).

[T.D. ATF-451, 66 FR 21668, May 1, 2001. Redesignated and amended by T.D. ATF-459, 66 FR 38550, July 25, 2001]

## Subpart B—Definitions

### § 26.11 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.

*Appropriate ATF Officer.* An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any functions relating to the administration or enforcement of this part by ATF Order 1130.29, Delegation Order—Delegation of the Director's Authorities in 27 CFR Part 26, Liquors and Articles from Puerto Rico and the Virgin Islands.

*Article.* Any preparation unfit for beverage use, made with or containing:

- (1) Wine or beer;
- (2) Distilled spirits or industrial spirits; or
- (3) Denatured spirits when such preparation is not manufactured under the provisions of this chapter.

*Bank.* Any commercial bank.

*Banking day.* Any day during which a bank is open to the public for carrying on substantially all its banking functions.

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

*Bottler.* Any person required to hold a basic permit as a bottler under 27 U.S.C. 203(b)(1).

*Bulk container.* Any container having a capacity of more than 1 gallon.

*Bulk distilled spirits.* The term “bulk distilled spirits” means distilled spirits in a container having a capacity in excess of 1 gallon.

*Bureau of Alcoholic Beverage Taxes.* Bureau of Alcoholic Beverage Taxes of the Commonwealth of Puerto Rico.

*Business day.* Any day, other than a Saturday, Sunday, or a legal holiday. (The term legal holiday includes all holidays in the District of Columbia and all legal holidays in the Commonwealth of Puerto Rico.)

*Commercial bank.* A bank, whether or not a member of the Federal Reserve System, which has access to the Federal Reserve Communications System (FRCS) or Fedwire. The “FRCS” or “Fedwire” is a communications network that allows Federal Reserve System member banks to effect a transfer of funds for their customers (or other commercial banks) to the Treasury Account at the Federal Reserve Bank of New York.

*Customs officer.* Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.

*Denatured spirits.* Industrial spirits denatured in accordance with approved formulas in distilled spirits plants established and operated under the provisions of this chapter relating to the establishment and operation of plants qualified to denature spirits in the United States or, in respect of a product of the Virgin Islands, shall also mean spirits denatured in accordance with approved formulas in plants established under the provisions of the Virgin Islands regulations and shall include, unless otherwise limited, both completely and specially denatured spirits.

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

*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), but shall not include industrial spirits as defined in this part except when used in reference to such spirits which would be subject to tax if brought into the United States.

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

*District director of customs.* The district director of customs at a headquarters port of the district (except the district of New York, N.Y.); the area directors of customs in the district of New York, N.Y.; and the port director at a port not designated as a headquarters port.

*Effective tax rate.* The net tax rate after reduction for any credit allowable under 26 U.S.C. 5010 for wine and flavor content at which the tax imposed on distilled spirits by 26 U.S.C. 7652 is paid or determined.

*Electronic fund transfer or EFT.* Any transfer of funds effected by a proprietor’s commercial bank, either directly or through a correspondent banking relationship, via the Federal Reserve Communications System (FRCS) or Fedwire to the Treasury Account at the Federal Reserve Bank of New York.

*Eligible article.* Any medicine, medicinal preparation, food product, flavor, flavoring extract or perfume which contains distilled spirits, is unfit for beverage purposes, and has been or will be brought into the United States from Puerto Rico or the Virgin Islands under the provisions of 26 U.S.C. 7652(g).

*Eligible flavor.* A flavor which:

(1) Is of a type that is eligible for drawback of tax under 26 U.S.C. 5134,

(2) Was not manufactured on the premises of a distilled spirits plant, and

(3) Was not subjected to distillation on distilled spirits plant premises such that the flavor does not remain in the finished product.

*Eligible wine.* Wine on which tax would be imposed by paragraph (1), (2), or (3) of 26 U.S.C. 5041(b) but for its removal to distilled spirits plant premises and which has not been subject to distillation at a distilled spirits plant after receipt in bond.

*Executed under penalties of perjury.* Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return, claim, form, or other document, or where no form of declaration is prescribed, with the declaration: "I declare under the penalties of perjury that this \_\_\_\_\_ (insert type of document, such as statement, report, certificate, application, claim, or other document), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete."

*Fiscal year.* The period which begins October 1 and ends on the following September 30.

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

*Importer.* Any person who imports distilled spirits, wines, or beer into the United States.

*Industrial spirits.* As to products of Puerto Rico, distilled spirits produced and warehoused at and withdrawn from distilled spirits plants established and operated under the provisions of this chapter relating to the establishment of such plants and the production, bonded warehousing, and withdrawal

from bond of distilled spirits in the United States, or as to products of the Virgin Islands, distilled spirits produced, warehoused, and withdrawn under Virgin Islands regulations.

*Kind.* As applied to spirits, kind shall mean class and type as prescribed in 27 CFR part 5. As applied to wines, kind shall mean the classes and types of wines as prescribed in 27 CFR part 4.

*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 appropriate ATF officer to adequately protect the revenue.

*Liquors.* Industrial spirits, distilled spirits, liqueurs, cordials and similar compounds, wines, and beer or any alcoholic preparation fit for beverage use.

*Permit.* A formal written authorization of the Secretary of the Treasury of Puerto Rico.

*Person.* An individual, a trust, an estate, a partnership, an association, a company, or a corporation.

*Proof gallon.* A gallon of liquid at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity or the alcoholic equivalent thereof.

*Rectifier.* Any person required to hold a rectifier's basic permit under 27 U.S.C. 203(b)(1).

*Revenue Agent.* Any duly authorized Commonwealth Internal Revenue Agent of the Department of the Treasury of Puerto Rico.

*Secretary.* The Secretary of the Treasury of Puerto Rico.

*Secretary or his delegate.* The Secretary or any officer or employee of the Department of the Treasury of Puerto Rico duly authorized by the Secretary to perform the function mentioned or described in this part.

*Taxpaid.* As used in this part with respect to liquors or articles of Puerto Rican manufacture, includes liquors or articles on which the tax was computed but with respect to which payment was

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deferred under the provisions of subpart E of this part.

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

*United States.* The States and the District of Columbia.

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

*Virgin Islands regulations.* Regulations issued or adopted by the Governor of the Virgin Islands, or his duly authorized agents, with the concurrence of the Secretary of the Treasury of the United States, or his delegate, under the provisions of 26 U.S.C. 5314, as amended, and §26.201a.

*Wine.* Still wine, vermouth, or other aperitif wine, imitation, substandard, or artificial wine, compounds designated as wine, flavored, rectified, or sweetened wine, champagne or sparkling wine, and artificially carbonated wine, containing not over 24 percent of alcohol by volume. Wines containing more than 24 percent of alcohol by volume are classed and taxed as distilled spirits.

(68A Stat. 917, as amended (26 U.S.C. 7805); 49 Stat. 981, as amended (27 U.S.C. 205) Aug. 16, 1954, ch. 736, 68A Stat. 775 (26 U.S.C. 6301); June 29, 1956, ch. 462, 70 Stat. 391 (26 U.S.C. 6301))

[T.D. ATF-48, 43 FR 13551, Mar. 31, 1978. Re-designated and amended by T.D. ATF-459, 66 FR 38550, July 25, 2001]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §26.11, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

### Subpart C [Reserved]

## Subpart Ca—Rum Imported Into the United States From Areas Other Than Puerto Rico and the Virgin Islands

### § 26.30 Excise taxes.

Distilled spirits excise taxes, less the estimated amounts necessary for payment of refunds and drawbacks, collected on all rum imported into the United States (including rum from possessions other than Puerto Rico and the Virgin Islands), will be deposited into the Treasuries of Puerto Rico and the Virgin Islands according to the for-

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mula described in §26.31. The amount deposited into the Treasuries of Puerto Rico and the Virgin Islands shall be the lesser of \$10.50, or the rate imposed by 26 U.S.C. 5001(a)(1) (including adjustments to the effective tax rate under 26 U.S.C. 5010), on each proof gallon of rum imported into the United States.

(Aug. 16, 1954, Chapter 736, 68A Stat. 907, as amended (26 U.S.C. 7652))

[T.D. ATF-203, 50 FR 15888, Apr. 23, 1985. Re-designated and amended by T.D. ATF-459, 66 FR 38550, July 25, 2001]

### § 26.31 Formula.

(a) The amount of excise taxes collected on rum that is imported into the United States from areas other than Puerto Rico and the Virgin Islands shall be deposited into the Treasuries of Puerto Rico and the Virgin Islands at the rate prescribed in 26 U.S.C. 7652(f). The distribution of such amount between Puerto Rico and the Virgin Islands shall be computed by using a permanent base percentage, which represents the excise taxes collected on rum brought into the United States from Puerto Rico and the Virgin Islands during fiscal year 1983. This base percentage is 87.626889 percent for Puerto Rico and 12.373111 percent for the Virgin Islands. The formula shall be as follows:

(1) Multiply the total excise taxes collected on rum brought into the United States (including rum from Puerto Rico and the Virgin Islands) during the previous fiscal year (October 1–September 30) by the base percentages to determine the relative shares of the entire U.S. rum market that will be allotted to Puerto Rico and the Virgin Islands;

(2) Subtract each of these shares from the excise taxes collected on rum transported to the United States from Puerto Rico and the Virgin Islands, respectively, during the previous fiscal year to determine each possession's loss or gain in relation to the previous fiscal year's U.S. rum market. Divide these results by the excise taxes collected on rum imported during the previous fiscal year from areas other than Puerto Rico and the Virgin Islands.

(b) Notwithstanding the formula prescribed in paragraph (a) above, the Virgin Islands' share of the excise taxes on