

## § 26.76

forward copies to the principal and to the surety. The appropriate ATF officer shall, prior to the termination date, notify the Secretary and the revenue agent of the proposed termination of any bond given under this part and the date of such termination.

[T.D. 6695, 28 FR 12932, Dec. 5, 1963, as amended by T.D. ATF-2, 37 FR 22736, Oct. 21, 1972. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-251, 52 FR 19338, May 22, 1987. Redesignated by T.D. ATF-459, 66 FR 38550, July 25, 2001]

### PERMITS REQUIRED

#### § 26.76 Insular permits.

Before liquors or articles of Puerto Rican manufacture may be shipped to the United States, an insular permit, ATF Form 5110.51 (for distilled spirits) or Form 2900 (for wine or beer), to compute the taxes imposed by 26 U.S.C. 7652(a), and to withdraw the products from the bonded establishment where they may be deposited, must be obtained from the Secretary, and such products may not be shipped to the United States until a permit to ship, on Form 487B, is applied for and obtained from the Secretary.

[T.D. 6551, 26 FR 1490, Feb. 22, 1961. Redesignated at 40 FR 16835, Apr. 15, 1975]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 26.76, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

### DISTILLED SPIRITS

#### § 26.77 Subject to tax.

(a) Distilled spirits of Puerto Rican manufacture, and any products containing such distilled spirits, brought into the United States and withdrawn for consumption or sale are subject to a tax equal to the tax imposed in the United States by 26 U.S.C. 5001.

(b) A credit against the tax imposed on distilled spirits by 26 U.S.C. 7652 is allowable under 26 U.S.C. 5010 on each proof gallon of alcohol derived from eligible wine or from eligible flavors which do not exceed 2½ percent of the finished product on a proof gallon basis. The credit is allowable at the time the tax is payable as if it constituted a reduction in the rate of tax.

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(c) Where credit against the tax is desired, the person liable for the tax shall establish an effective tax rate in accordance with § 26.79a. The effective tax rate established will be applied to each withdrawal or other disposition of the distilled spirits for consumption or sale within the United States.

(Approved by Office of Management and Budget under control number 1512-0203)

(Act of August 16, 1954, Pub. L. 591, 68A Stat. 907, as amended (26 U.S.C. 7652); Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended (26 U.S.C. 5001); Sec. 6, Pub. L. 96-598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

[T.D. ATF-297, 55 FR 18066, Apr. 30, 1990. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38551, July 25, 2001]

#### § 26.78 Application and permit, ATF Form 5110.51.

Application for permit to compute the tax on, and to withdraw, distilled spirits shall be made on ATF Form 5110.51, in quintuplicate, by the proprietor. The proprietor shall forward all copies of the form to the Secretary. If the application is properly prepared and is otherwise in order, the Secretary or his delegate shall execute the permit, retain one copy, and forward the original and remaining copies of the form to the revenue agent at the premises where the products are located.

[T.D. ATF-62, 44 FR 71711, Dec. 11, 1979, as amended by T.D. ATF-251, 52 FR 19338, May 22, 1987. Redesignated by T.D. ATF-459, 66 FR 38550, July 25, 2001]

#### § 26.79 Inspection or gauge and computation of tax.

On receipt of permit to compute the tax on ATF Form 5110.51, the revenue agent shall:

(a) In the case of spirits in packages, prepare a gauge record as provided in § 26.164a in quadruplicate, compute the tax thereon, and attach all copies of the gauge record to ATF Form 5110.51;

(b) In the instance of spirits in cases, verify by inspection the quantity of spirits described on the form; or

(c) In the case of spirits in a bulk conveyance, verify by gauge or inspection the quantity of spirits described on the form.

If the revenue agent determines any variation between his gauge and the