

before withdrawal from bonded premises.

(Sec. 201, Pub. L. 85-859, 72 Stat 1320, as amended (26 U.S.C. 5006))

#### § 19.26 Tax on wine.

(a) *Imposition of tax.* A tax is imposed by 26 U.S.C. 5041 or 7652 on wine (including imitation, substandard, or artificial wine, and compounds sold as wine) produced in or imported or brought into the United States. Proprietors of distilled spirits plants may become liable for wine taxes under 26 U.S.C. 5362(b)(3) in connection with wine transferred in bond to a distilled spirits plant. Wine may not be removed from the bonded premises of a distilled spirits plant for consumption or sale as wine.

(b) *Liability for tax.* Except as otherwise provided by law, the liability for tax on wine transferred in bond from a bonded wine cellar to a distilled spirits plant, or transferred in bond between distilled spirits plants, will continue until the wine is used in a distilled spirits product.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1331, as amended, 1380, as amended (26 U.S.C. 5041, 5362))

[T.D. ATF-297, 55 FR 18062, Apr. 30, 1990; 55 FR 23634, June 11, 1990]

#### ASSESSMENTS

#### § 19.31 Production not accounted for.

Where the regional director (compliance) finds that a distiller has not accounted for all spirits produced by him, assessment shall be made for the tax on the difference between the quantity reported and the quantity found to have been actually produced.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1320, as amended (26 U.S.C. 5006))

#### § 19.32 Assessment of tax on spirits, denatured spirits, or wines in bond which are lost, destroyed or removed without authorization.

When spirits, denatured spirits, or wines in bond are lost or destroyed (except spirits, denatured spirits, or wines on which the tax is not collectible by reason of the provisions of 26 U.S.C. 5008 (a) or (d) or 26 U.S.C. 5370, as applicable) and the proprietor or other per-

son liable for the tax on the spirits, denatured spirits, or wines fails to file a claim for remission as provided in § 19.41(a) or when the claim is denied, the tax shall be assessed. In any case where spirits, denatured spirits, or wines in bond are removed from bonded premises other than as authorized by law, the tax shall be assessed. In the case of losses under circumstances described in 26 U.S.C. 5006(b) with respect to packages of spirits or denatured spirits on bonded premises, the tax shall be assessed if the tax is not paid upon the demand of the regional director (compliance).

(Sec. 201, Pub. L. 85-859, 72 Stat. 1320, as amended, 1323, as amended, 1381, as amended (26 U.S.C. 5006, 5008, 5370))

#### EFFECTIVE TAX RATES

SOURCE: Sections 19.34 through 19.38 added by T.D. ATF-297, 55 FR 18062, Apr. 30, 1990, unless otherwise noted.

#### § 19.34 Computation of effective tax rate.

(a) The proprietor shall compute the effective tax rate for distilled spirits containing eligible wine or eligible flavors as the ratio of the numerator and denominator as follows:

(1) The numerator will be the sum of:

(i) The proof gallons of all distilled spirits used in the product (exclusive of distilled spirits derived from eligible flavors), multiplied by the tax rate prescribed by 26 U.S.C. 5001;

(ii) The wine gallons of each eligible wine used in the product, multiplied by the tax rate prescribed by 26 U.S.C. 5041(b)(1), (2), or (3), which would be imposed on the wine but for its removal to bonded premises; and

(iii) The proof gallons of all distilled spirits derived from eligible flavors used in the product, multiplied by the tax rate prescribed by 26 U.S.C. 5001, but only to the extent that such distilled spirits exceed 2½% of the denominator prescribed in paragraph (a)(2) of this section.

(2) The denominator will be the sum of:

(i) The proof gallons of all distilled spirits used in the product, including distilled spirits derived from eligible flavors; and

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(ii) The wine gallons of each eligible wine used in the product, multiplied by twice the percentage of alcohol by volume of each, divided by 100.

(b) In determining the effective tax rate, quantities of distilled spirits, eligible wine, and eligible flavors will be expressed to the nearest tenth of a proof gallon. The effective tax rate may be rounded to as many decimal places as the proprietor deems appropriate, provided that, such rate is expressed no less exactly than the rate rounded to the nearest whole cent, and the effective tax rates for all products

will be consistently expressed to the same number of decimal places. In such case, if the number is less than five it will be dropped; if it is five or over, a unit will be added.

(c) The following is an example of the use of the formula.

**BATCH RECORD**

Distilled spirits .....	2249.1 proof gallons.
Eligible wine (14% alcohol by volume).	2265.0 wine gallons.
Eligible wine (19% alcohol by volume).	1020.0 wine gallons.
Eligible flavors .....	100.9 proof gallons.

$$\frac{2249.1(\$13.50)+2265.0(\$1.07)+1020(\$1.57)+16.6^1(\$13.50)}{2249.1+100.9+(2265.0 \times .28)+(1020 \times .38)} =$$

$$\frac{\$30,362.85+\$2,423.55+\$1,601.40+\$224.10}{2,350.0+634.2+387.6} =$$

$$\frac{\$34,611.90}{3,371.8} = \$10.27, \text{ the effective tax rate.}$$

<sup>1</sup>Proof gallons by which distilled spirits derived from eligible flavors exceed 2½% of the total proof gallons in the batch (100.9 - (2½%) × 3,371.8 = 16.6).

(Sec. 6, Pub. L. 96-598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

[T.D. ATF-297, 55 FR 18062, Apr. 30, 1990, as amended by T.D. ATF-307, 52736, Dec. 21, 1990]

**§ 19.35 Application of effective tax rate (Actual).**

Any proprietor who does not apply effective tax rates to taxable removals in accordance with § 19.36, 19.37 or 19.38 shall establish an effective tax rate for each batch of distilled spirits in the processing account on which credit against tax is desired for alcohol derived from eligible wine or eligible flavors. The effective tax rate will be computed in accordance with § 19.34 and will be recorded on the dump or batch record for the product, as required by § 19.748. The serial numbers of the cases removed at such rate shall be recorded on the record of tax determination prescribed in § 19.761 or other related

record available for examination by any ATF officer.

(Sec. 807, Pub. L. 96-39, 93 Stat. 284 (26 U.S.C. 5207); Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201); Sec 6, Pub. L. 96-598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

**§ 19.36 Standard effective tax rate.**

(a) The proprietor may establish a permanent standard effective tax rate for any eligible distilled spirits product based on the least quantity and the lowest alcohol content of eligible wine or eligible flavors used in the manufacture of the product. The permanent standard effective tax rate must equal the highest tax rate applicable to the product. The proprietor shall maintain a permanent record of the standard effective tax rate established for each product in accordance with § 19.765. Whenever the proprietor manufactures a batch of the product with a lesser quantity or lower alcohol content of eligible wine or eligible flavor, he shall keep the cased goods segregated from other completed cases of the same