

§ 194.55 Caterers.

(a) *General.* Where a contract to furnish liquors is made by a caterer at his place of business where he holds a special tax stamp, no liability to special tax is incurred by the serving of the liquors at a different location.

(b) *Additional liability.* Where the contract of a caterer provides for the sale of liquors by the drink at a place, or simultaneously at different places, other than his place of business where he holds a special tax stamp, a separate liability to special tax is incurred at each such place.

(c) *Records.* Caterers must maintain sufficient commercial records to verify that their special (occupational) tax liabilities have been satisfied for all locations at which activities subject to special (occupational) tax occur. These commercial records should indicate the names and addresses of locations at which alcoholic beverages have been sold or offered for sale and the dates and times that such activities occurred. These commercial records must be available to ATF officers upon request.

(26 U.S.C. 5121, 5122, 5143, 5555, 6806, 7011)

[T.D. 7008, 34 FR 3664, Mar. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975; T.D. ATF-329, 57 FR 39598, Sept. 1, 1992]

§ 194.56 Peddling.

No person shall peddle distilled spirits, wines, or beer, except as provided in §§ 194.126, 194.185, and 194.186. Persons peddling liquors and not meeting the exemptions specified in §§ 194.126, 194.185, and 194.186 are required to pay special tax at each place where sales are consummated.

(72 Stat. 1344, 1347; 26 U.S.C. 5123, 5143)

SALES IN TWO OR MORE AREAS ON THE
SAME PREMISES

§ 194.57 General.

Where liquors are sold by a proprietor in two or more areas within his place of business, only one special tax stamp is required. Where the proprietor lets to another person or persons the privilege of selling liquors in two or more areas within his place of business, whether such privilege is exercised separately or simultaneously with the

proprietor or another concessionaire, each such person shall pay but one special tax.

§ 194.58 Hotels.

The proprietor of a hotel who conducts the sale of liquors throughout the hotel premises shall pay but one special tax. For example, different areas in a hotel such as banquet rooms, meeting rooms, guest rooms, or other such areas, operated by the proprietor, collectively constitute a single place of business. Where any concessionaire conducts the sale of liquors at two or more areas in a hotel, such areas shall be regarded as a single place of business, and he shall pay but one special tax.

§ 194.59 Ball park, race track, etc.; sales throughout the premises.

The proprietor of a ball park, race track, stadium, pavilion, or other similar enclosure constituting one premises, who engages in the business of selling liquors throughout such enclosure, including sales from baskets or containers by his employees in his behalf, shall pay but one special tax for such enclosure. Each concessionaire having the same privilege throughout the enclosure, whether such privilege is exercised separately or simultaneously with the proprietor or another concessionaire, or concessionaires, shall pay but one special tax for such enclosure.

(72 Stat. 1347; 26 U.S.C. 5143)

Subpart F—Each Business Taxable**§ 194.71 Different businesses of same ownership and location.**

Where more than one taxable business is conducted by the same person at the same place, special tax for each business shall be paid at the rates severally prescribed, except as provided in §§ 194.24 and 194.26.

(72 Stat. 1347; 26 U.S.C. 5143)

§ 194.72 Dealer in beer and dealer in liquors at the same location.

(a) *Rule in effect prior to January 1, 1988.* Any person who was required to pay special tax as a wholesale or retail dealer in beer, who entered business as such, and who thereafter, in the same

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or a subsequent month prior to January 1, 1988, began to sell distilled spirits or wine shall, in addition, pay the special tax as a wholesale or retail dealer in liquors before commencing the sale, or offering for sale, of distilled spirits or wine.

(b) Rule in effect on January 1, 1988, and thereafter. Any person who pays special tax as a retail dealer in beer for a period beginning on or after January 1, 1988, (including one who pays such tax under the transition rule of § 194.103(b)) is exempt from additional special tax as a retail dealer in liquors with respect to sales of distilled spirits or wine at the place and during the period for which the tax as a retail dealer in beer was paid. Similarly, any person who pays special tax as a wholesale dealer in beer for a period beginning on or after January 1, 1988, (including one who pays such tax under the transition rule of § 194.103(b)) is exempt from additional special tax as a wholesale dealer in liquors with respect to sales of distilled spirits or wine at the place and during the period for which the tax as a wholesale dealer in beer was paid.

(26 U.S.C. 5113, 5143)

[T.D. ATF-285, 54 FR 12610, Mar. 28, 1989]

Subpart G—Partnerships

§ 194.91 Liability of partners.

Any number of persons carrying on one business in partnership at any one place during any fiscal year shall be required to pay but one special tax for such business.

(72 Stat. 1347; 26 U.S.C. 5143)

§ 194.92 Addition of partners or incorporation of partnership.

Where a number of persons who have paid special tax as partners admit one or more new members to the firm or form a corporation (a separate legal entity) to take over the business, the new firm or corporation shall pay special tax before commencing business.

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

§ 194.93 Formation of a partnership by two dealers.

Where two persons, each holding a special tax stamp for a business carried

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on by himself, form a partnership, the firm shall pay special tax to cover the business conducted by the partnership.

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

§ 194.94 Withdrawal of one or more partners.

When one or more partners withdraw from a partnership which has paid special tax, the remaining partner, or partners, may file with ATF a notice of succession to the partnership business within 30 days after the change in control, as provided in § 194.169, and carry on the same business at the same address for the remainder of the taxable period for which special tax was paid without paying additional special tax. However, where the remaining partner, or partners, do not file such timely notice of succession, they are required to pay special tax, as provided in § 194.170.

(68A Stat. 846, 72 Stat. 1347; 26 U.S.C. 7011, 5143)

[25 FR 6270, July 2, 1960, as amended by T.D. 7008, 34 FR 3664, Mar. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-251, 52 FR 19335, May 22, 1987]

Subpart H—Payment of Special Tax

§ 194.101 Special tax rates.

(a) Previous rates. Prior to January 1, 1988, the special (occupational) taxes imposed on dealers in liquors and beer were as follows:

(1) Annual (tax year) rates:

Table with 2 columns: Dealer type and Tax rate. Rows include Wholesale dealer in liquors (spirits, wines, beer) at \$255.00, Wholesale dealer in beer (beer only) at 123.00, Retail dealer in liquors (spirits, wines, beer) at 54.00, and Retail dealer in beer (beer only) at 24.00.

(2) Monthly (calendar month) rates:

Table with 2 columns: Dealer type and Tax rate. Rows include Limited retail dealer (spirits, wines, beer) at \$4.50 and Limited retail dealer (wines, beer) at 2.20.

(b) Current rates. Effective January 1, 1988, special (occupational) taxes are imposed on dealers in liquors and beer at the following rates:

Table with 2 columns: Dealer type and Tax rate. Rows include Wholesale dealer in liquors (spirits, wines, beer) at \$500 and Wholesale dealer in beer (beer only) at 500.