

delivered. However, no tax paid on any United States wine for which a claim has been or will be made under the provisions of 27 CFR Part 70, subpart G will be refunded or credited. If the tax on the United States wine has been determined but not paid, the person liable for the tax may, when such wine is returned to bond, be relieved of the liability. Claims for refund or credit, or relief from tax paid or determined on United States wine returned to bond are filed in accordance with § 24.66.

(b) *Receipt.* The quantity of unmerchable taxpaid United States wine returned to bond is determined upon receipt on bonded wine premises. The quantity determined will be entered on the ATF F 5120.17, Report of Bonded Wine Premises Operations for the reporting period during which the United States wine is returned.

(c) *Records.* The proprietor shall maintain records covering each lot of unmerchable taxpaid wine returned to bond in accordance with § 24.312. (Sec. 201, Pub. L. 85-859, 72 Stat. 1332, as amended, 1382, as amended (26 U.S.C. 5044, 5371))

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[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-312, 56 FR 31082, July 9, 1991; T.D. ATF-338, 58 FR 19065, Apr. 12, 1993; T.D. ATF-344, 58 FR 40354, July 28, 1993; T.D. ATF-376, 61 FR 31030, June 19, 1996]

TAXPAID WINE OPERATIONS

§ 24.296 Taxpaid wine operations.

(a) *General.* The proprietor may conduct taxpaid wine operations authorized by § 24.102 in an area designated as a taxpaid wine premises at a bonded wine premises or at a taxpaid wine bottling house. Taxpaid foreign wine may be received on the taxpaid wine premises for reconditioning and removal without retaxpayment or for destruction without credit of tax. Any taxpaid wine operations will be separate from all nontaxpaid wine operations and taxpaid wine will be clearly identified as provided in § 24.135. The appropriate ATF officer may require any additional segregation and identification of taxpaid wine operations as deemed necessary to protect the revenue.

(b) *Treatment and blending.* Taxpaid wine may be treated with sulfur dioxide compounds, refrigeration or pasteurization and may also be preserved, filtered or clarified by the use of methods or materials which will not change the basic character of the wine. Water may not be added to taxpaid wine. The proprietor who desires to treat wine in any manner (other than by simple filtration or the use of sulfur compounds, refrigeration or pasteurization) shall first file with the appropriate ATF officer an application giving the details of the proposed treatment. The proprietor may not use the treatment prior to approval. The proprietor may incur civil or criminal liability for using an unauthorized treatment of untaxpaid wine. Wine of the same kind (class and type), national origin and tax class may only be mixed to facilitate handling at a taxpaid wine bottling house; otherwise, the blending of taxpaid wine on such premises is prohibited. Taxpaid wine of different national origins, but of the same kind and tax class, may only be blended on taxpaid wine premises. (Sec. 201, Pub. L. 85-859, 72 Stat. 1407 (26 U.S.C. 5352, 5661))

[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13683, Mar. 22, 1999]

Subpart O—Records and Reports

§ 24.300 General.

(a) *Records and reports.* A proprietor who conducts wine operations shall maintain wine transaction records and submit reports as required by this part. Transaction records may be recorded in wine gallons or in liters. However, required reports will show wine volumes in wine gallons. The equivalent wine gallons of wine bottled or packed and labeled according to metric measure will be determined using the following conversion factors:

(1) *Per case.* Equivalent gallonage may be determined using the following conversion factors for cases of metric bottles:

Bottles per case	Net content each bottle	Equivalent gallonage
120	50 mL .....	1.58502
60	100 mL .....	1.58502
48	187 mL .....	2.37119

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Bottles per case	Net content each bottle	Equivalent gallonage
24	375 mL .....	2.37753
12	750 mL .....	2.37753
12	1 liter .....	3.17004
6	1.5 liter .....	2.37753
4	3 liter .....	3.17004

(2) *Per liter.* Equivalent gallonage may be determined by multiplying total liters by a conversion factor of 0.26417 gallons per liter.

(b) *Time of making entries.* Any operation or transaction is to be entered in records or commercial papers at the time the operation or transaction occurs, except that where records are posted from source records or from supplemental auxiliary records prepared at the time the operation or transaction occurs, entries in another record may be deferred to not later than the close of business of the third business day succeeding the day on which the operation or transaction occurs. The proprietor shall retain all source records and all supplemental or auxiliary records which support entries in other records or commercial papers in order to facilitate verification of operations by appropriate ATF officers. Source records and supplemental or auxiliary records may be used as a record of an operation or transaction and to prepare the ATF F 5120.17, Report of Bonded Wine Premises Operations, provided the record will readily allow for verification of an operation or transaction by appropriate ATF officers.

(c) *Prescribed forms.* All reports required by this part must be submitted on forms prescribed by §24.20. Entries will be made as indicated by the headings of the columns and lines, and as required by the instructions for the form. Report forms are furnished free of cost.

(d) *Period of retention.* All prescribed returns, reports and records (including source records) will be retained by the proprietor for a period of not less than three years from the record date or the date of the last entry required to be made in the record, whichever is later. However, the appropriate ATF officer may require records to be kept an additional period not exceeding three years

in any case where retention is determined to be necessary.

(e) *Data processing.* (1) Notwithstanding any other provision of this section, data maintained on data processing equipment may be kept at a location other than the wine premises if the original operation or transaction source records required by this subpart are kept available for inspection at the wine premises.

(2) Data which has been accumulated on cards, tapes, discs, or other accepted recording media will be retrievable within five business days.

(3) The applicable data processing program will be made available for examination if requested by an appropriate ATF officer.

(f) *Photographic copies of records.* The proprietor may record, copy, or reproduce records required by this part and may use any process which accurately reproduces the original record and which forms a durable medium for reproducing and preserving the original record. Whenever records are reproduced under this section, the reproduced records will be preserved in conveniently accessible files, and provisions will be made for examining, viewing and using the reproduced record the same as if it were the original record, and it will be treated and considered for all purposes as though it were the original record. All provisions of law and regulations applicable to the original are applicable to the reproduced record. As used in this paragraph, "original record" means the record required to be maintained or preserved by the proprietor, even though it may be an executed duplicate or other copy of the document.

(g) *ATF F 5120.17, Report of Bonded Wine Premises Operations.* A proprietor who conducts bonded wine premises operations will summarize transaction entries and submit an ATF F 5120.17 on a monthly basis, except that:

(1) A proprietor who files a monthly ATF F 5120.17 and does not expect an inventory change or any reportable operations to be conducted in a subsequent month or months, may attach a statement to the ATF F 5120.17 filed that, until a change in the inventory or a reportable operation occurs, an ATF F 5120.17 will not be filed.

(2) A proprietor may file ATF F 5120.17 reports on a calendar year basis if (i) The proprietor expects to be exempt from filing semimonthly returns under §24.273 for the calendar year and (ii) The sum of the bulk and bottled wine to be accounted for in all tax classes is not expected to exceed 20,000 gallons for any one month during the calendar year when adding up the bulk and bottled wine on hand at the beginning of the month, bulk wine produced by fermentation, sweetening, blending, amelioration or addition of wine spirits, bulk wine bottled, bulk and bottled wine received in bond, taxpaid wine returned to bond, bottled wine dumped to bulk, inventory gains, and any activity written in the untitled lines of the report form which increases the amount of wine to be accounted for. To begin the annual filing of a report of bonded wine premises operations, a proprietor will state such intent in the "Remarks" section when filing the prior month's ATF F 5120.17. A proprietor who is commencing operations during a calendar year and expects to meet these criteria may use a letter notice to the appropriate ATF officer, and file an annual ATF F 5120.17 for the remaining portion of the calendar year. If a proprietor determines that the wine excise tax liability for the current year will exceed \$1,000 or that the 20,000 gallon activity level will be exceeded in any month, an ATF F 5120.17 will be filed for that month and for all subsequent months of the calendar year. If there is a jeopardy to the revenue, the appropriate ATF officer may at any time require any proprietor otherwise eligible for annual filing of a report of bonded wine premises operations to file such report monthly. The information reported on the ATF F 5120.17 will be maintained in accordance with the requirements of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended (26 U.S.C. 5367, 5555))

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#### § 24.301 Bulk still wine record.

A proprietor who produces or receives still wine in bond, (including wine intended for use as distilling material or vinegar stock to which water has not yet been added) shall maintain records of transactions for bulk still wine. Records will be maintained for each tax class of still wine including the date the transaction occurred. The bulk still wine record will contain the following:

(a) The volume produced by fermentation in wine gallons determined by actual measurement;

(b) The volume received, shipped taxpaid, removed (e.g., taxpaid, in bond, export, family use, samples) and used in sparkling wine production; if a tax credit under 26 U.S.C. 5041(c) may be claimed, the record will be maintained in sufficient detail to insure that such a tax credit is properly claimed;

(c) The specific type of production method used, e.g., natural fermentation, amelioration, sweetening, addition of spirits, blending;

(d) The volume of wine used and produced by amelioration, addition of spirits or sweetening, as determined by measurements of the wine before and after production.

(e) The volume of wine used for and produced by blending, if wines of different tax classes are blended together;

(f) The volume of wine used to produce formula wine, vinegar stock and distilling material;

(g) The volume of wine removed to fermenters for refermentation or removed directly to the production facilities of a distilled spirits plant or vinegar plant;

(h) Where a process authorized under §24.248 is employed, records will be maintained to allow for verification of any limitation specified for the process employed and to ensure that the use of the process is consistent with good commercial practice;

(i) Where a treating material is dissolved or dispersed in water as authorized in this part, the volume of water added to the wine; and