

§ 24.53

27 CFR Ch. I (4-1-04 Edition)

of the sale, at the bonded wine premises or the taxpaid wine bottling house, or at the principal business office as designated in writing to the appropriate ATF officer, of wine which, at the time of sale, is stored at the bonded wine premises or taxpaid wine bottling house, or has been removed from the bonded wine premises to a taxpaid wine premises, the operations of which are integrated with the operations of the bonded wine premises and which is adjacent to or in the immediate vicinity of the bonded wine premises. The proprietor may not have more than one place of sale, as to each bonded wine premises or taxpaid wine bottling house, that will be exempt from special (occupational) tax under this section.

(b) *Place of exemption.* Unless the proprietor has claimed the exemption elsewhere, it will be presumed that the exemption is claimed at the bonded wine premises or taxpaid wine bottling house where the wine or spirits are stored. If exemption from payment of special (occupational) tax is to be claimed for sales at the principal business office rather than for sales at the bonded wine premises or taxpaid wine bottling house, the proprietor shall state such intention in the approved application or file a notice in letter form of this intention with the appropriate ATF officer. Where the exemption is claimed for a place other than the bonded wine premises or taxpaid wine bottling house, the special (occupational) tax will be paid for any sales made at the bonded wine premises or taxpaid wine bottling house.

(c) *Exception.* Where the proprietor of a bonded wine premises or a taxpaid wine bottling house has not paid special (occupational) tax as a wholesale dealer and consummates sales of wine to another dealer at the purchaser's place of business through a delivery route sales personnel or otherwise, the proprietor of the bonded wine premises or taxpaid wine bottling house shall be required to pay special (occupational) tax as a wholesale dealer.

(d) *Wholesaler's special (occupational) tax.* A wholesale dealer in liquors who has paid the appropriate special (occupational) tax as provided in part 194 of this chapter will not again be required to pay special (occupational) tax as a

wholesale dealer because of sales of wine to wholesale or retail dealers in liquors, or to limited retail dealers, at the purchaser's place of business. (Sec. 201, Pub. L. 85-859, 72 Stat. 1340, as amended (26 U.S.C. 5111, 5113, 5142))

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[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13683, 13684, Mar. 22, 1999]

§ 24.53 Special (occupational) tax returns.

(a) *General.* Special (occupational) tax is paid by filing ATF F 5630.5, Special Tax Registration and Return, with payment of tax, in accordance with the instructions on the form.

(b) *Preparation of ATF F 5630.5.* Unless correctly preprinted on a renewal form, all of the information called for on F 5630.5 shall be provided, including:

(1) The true name of the taxpayer.

(2) The trade name(s) (if any) of the business(es) subject to special (occupational) tax.

(3) The employer identification number (see § 24.45).

(4) The exact location of the place of business, by name and number of building or street, or if these do not exist, by some description in addition to the post office address. In the case of one return for two or more locations, the address to be shown will be the taxpayer's principal place of business (or principal office, in case of a corporate taxpayer).

(5) The class(es) of special (occupational) tax to which the taxpayer is subject.

(6) Ownership and control information: that is, the name, position, and residence address of every owner of the business and of every person having power to control its management and policies with respect to the activity subject to special (occupational) tax. "Owner of the business" includes every partner, if the taxpayer is a partnership, and every person owning 10% or more of its stock, if the taxpayer is a corporation. However, the ownership and control information required by this paragraph need not be stated if the same information has been previously provided to ATF in connection with a

permit application, and if the information previously provided is still current.

(c) *Multiple locations and/or classes of tax.* A taxpayer subject to special (occupational) tax for the same period at more than one location or for more than one class of tax shall:

(1) File one special (occupational) tax return, ATF F 5630.5, with payment of tax, to cover all such locations and classes of tax; and

(2) Unless correctly printed on a renewal form, prepare, in duplicate, a list identified with the taxpayer's name, address (as shown on ATF F 5630.5), employer identification number, and period covered by the return. The list will show, by States, the name, address, and tax class of each location for which special (occupational) tax is being paid. The original of the list will be filed with ATF in accordance with instructions on the return, and the copy will be retained at the taxpayer's principal place of business (or principal office, in case of a corporate taxpayer) for the period specified in § 24.300(d).

(d) *Signing of ATF F 5630.5—(1) Ordinary returns.* The return of an individual proprietor shall be signed by the individual. The return of a partnership shall be signed by a general partner. The return of a corporation shall be signed by any corporate officer. In each case, the person signing the return shall designate his or her capacity as "individual owner," "member of firm," or, in the case of a corporation, the title of the officer.

(2) *Fiduciaries.* Receivers, trustees, assignees, executors, administrators, and other legal representatives who continue the business of a bankrupt, insolvent, deceased person, etc., shall indicate the fiduciary capacity in which they act.

(3) *Agent or attorney-in-fact.* If a return is signed by an agent or attorney-in-fact, the signature shall be preceded by the name of the principal and followed by the title of the agent or attorney-in-fact. A return signed by a person as agent will not be accepted unless there is filed, with the ATF office where the return is required to be filed, a power of attorney authorizing the agent to perform the act.

(4) *Perjury statement.* ATF F 5630.5 will contain or be verified by a written declaration that the return has been executed under the penalties of perjury. (26 U.S.C. 5142, 6061, 6065, 6151, 7011)

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§ 24.54 Special (occupational) tax stamps.

(a) *Issuance of special (occupational) tax stamps.* Upon filing a properly executed return on ATF F 5630.5, together with the full remittance, the taxpayer will be issued an appropriately designated special (occupational) tax stamp. If the return covers multiple locations, the taxpayer will be issued one appropriately designated stamp for each location listed on the attachment required by § 24.53(c), but showing, as to name and address, only the name of the taxpayer and the address of the taxpayer's principal place of business (or principal office in case of a corporate taxpayer).

(b) *Distribution of special (occupational) tax stamps for multiple locations.* On receipt of the special (occupational) tax stamps, the taxpayer shall verify that there is one stamp for each location listed on the attachment to ATF F 5630.5. Unless correctly printed on the renewal stamp, the taxpayer shall designate one stamp for each location and shall type or print on each stamp the address of the business conducted at the location for which that stamp is designated. The taxpayer shall then forward each stamp to the place of business designated on the stamp.

(c) *Examination of special (occupational) tax stamps.* All stamps denoting payment of special (occupational) tax will be kept available for inspection by appropriate ATF officers, at the location for which designated, during business hours. (26 U.S.C. 5146, 6806)

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