

§ 25.212

(c) *Records.* For beer returned to the brewery under this subpart, the brewer's daily records under § 25.292 will show:

- (1) Date;
- (2) Quantity of beer returned;
- (3) If the title to the beer has passed, the name and address of the person returning the beer; and
- (4) Name and address of the brewery from which the beer was removed, if different from the brewery to which returned.

(d) *Supporting records.* The records of returned beer will be supported by invoices, credit memoranda or other commercial papers, and will differentiate between beer returned to the brewery from which removed and beer returned to a brewery different from the one from which removed.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1334, as amended, 1335, as amended, 1390, as amended (26 U.S.C. 5054, 5056, 5415))

§ 25.212 Beer returned to brewery from which removed.

If beer on which the tax has been determined or paid is returned to the brewery from which removed, the brewer shall take the quantity of beer as an offset or deduction against the quantity of beer removed for consumption or sale from the brewery on that business day, as provided in § 25.159

(Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended, 1390, as amended (26 U.S.C. 5056, 5415))

§ 25.213 Beer returned to brewery other than that from which removed.

(a) *Refund or adjustment of tax.* If beer on which the tax has been determined or paid is returned to a brewery of the brewer other than the one from which removed, the brewer may make a claim for refund or relief of tax or may make an adjustment to the beer tax return, for the tax on the beer returned to the brewery. The brewer may not take an offset for beer returned to the brewery other than the one from which removed. Procedures for filing claims for refund or relief of tax or for making adjustments to the beer tax return are contained in Subpart T of this part.

(b) *Notice.* A brewer need not file notice of intention to return beer to a

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

brewery other than the one from which removed unless required by the appropriate ATF officer. When a notice is required, the brewer shall serially number each notice and execute it under penalties of perjury as defined in § 25.11. The brewer must file it with the appropriate ATF officer. The notice will contain the following information:

(1) The number and sizes of kegs and the actual quantity of beer, in barrels; or the number of cases and the number and sizes of bottles within the cases and the actual quantity of beer, in barrels;

(2) The name and address of the brewery from which the beer was removed;

(3) A statement that the tax on the beer has been fully paid or determined and the rate at which the tax on the beer was paid or determined; and

(4) If the title to the beer has passed, the name and address of the person returning the beer.

(c) *Return of beer.* If the brewer is required to file a notice of intention to return beer to the brewery, the brewer may bring the beer onto the brewery premises prior to filing the notice. The brewer shall segregate the returned beer from all other beer at the brewery and clearly identify it as returned beer. The returned beer will be retained intact for inspection by an appropriate ATF officer until the notice has been filed and disposition authorized.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended (26 U.S.C. 5056))

[T.D. ATF-224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF-437, 66 FR 5479, Jan. 19, 2001]

Subpart N—Voluntary Destruction

§ 25.221 Voluntary destruction of beer.

(a) *On brewery premises.* (1) A brewer may destroy, at the brewery, beer on which the tax has not been determined or paid.

(2) A brewer operating a tavern on brewery premises under § 25.25 may destroy taxpaid or tax-determined beer stored on brewery premises, in accordance with the requirements of § 25.225.

(b) *Destruction without return to brewery.* A brewer may destroy beer on which the tax has been paid or determined at a location other than any of

Alcohol and Tobacco Tax and Trade Bureau, Treasury

§ 25.224

the breweries operated by the brewer, upon compliance with this subpart.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended (26 U.S.C. 5056))

[T.D. ATF-224, 51 FR 7673, Mar. 5, 1986; 51 FR 9190, Mar. 18, 1986; T.D. ATF-268, 53 FR 8629, Mar 16, 1988, as amended by T.D. 372, 61 FR 20724, May 8, 1996]

§ 25.222 Notice of brewer.

(a) *Beer to be destroyed.* When a brewer possesses beer which has been tax-paid or tax determined and which the brewer wishes to destroy at a location other than at any of the brewer's breweries, the brewer shall give written notice of intention to destroy the beer. The brewer must submit this notice to the appropriate ATF officer.

(b) *Execution of notice.* The brewer shall serially number each notice and execute each notice under penalties of perjury as defined in §25.11. The brewer shall specify the date on which the beer is to be destroyed; this date may not be less than 12 days from the date the notice is mailed or delivered to the appropriate ATF officer.

(c) *Information to be furnished.* The notice will contain the following information:

(1) The number and sizes of kegs and the actual quantity of beer, in barrels; or the number of cases and the number and sizes of bottles within the cases, and the actual quantity of beer in barrels. When kegs containing less than the actual contents are to be destroyed, the brewer shall determine the actual content of beer by weight or by other accurate means.

(2) The date on which the beer was received for destruction.

(3) A statement that the tax on the beer has been fully paid or determined and the rate at which the tax on the beer was paid or determined.

(4) If the title of the beer has passed, the name and address of the person returning the beer.

(5) The location at which the brewer desires to destroy the beer and the rea-

son for not returning the beer to the brewery.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended (26 U.S.C. 5056))

[T.D. ATF-224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF-437, 66 FR 5479, Jan. 19, 2001]

§ 25.223 Destruction of beer off brewery premises.

(a) *Destruction without supervision.* A brewer may destroy beer without supervision if the appropriate ATF officer does not advise the brewer before the date specified in the notice that destruction of the beer is to be supervised.

(b) *Destruction with supervision.* The appropriate ATF officer may require that an appropriate ATF officer verify the information in the notice of destruction or witness the destruction of the beer. The appropriate ATF officer may also require a delay in the destruction of the beer or, if the place of destruction is not readily accessible to an appropriate ATF officer, may require that the beer be moved to a more convenient location. In this case, the brewer may not destroy the beer except under the conditions imposed by the appropriate ATF officer.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended (26 U.S.C. 5056))

[T.D. ATF-224, 51 FR 7673, Mar. 5, 1986, as amended by T.D. ATF-437, 66 FR 5479, Jan. 19, 2001]

§ 25.224 Refund or adjustment of tax.

(a) *Claim for refund or relief of tax.* The tax paid by a brewer on beer produced in the United States and destroyed in accordance with this subpart may be refunded to the brewer. If the tax has not been paid, the brewer may be relieved of liability for the tax. Claims for refund or relief of tax will be filed as provided in subpart T of this part.

(b) *Adjustments to the excise tax return.* A brewer may make an adjustment (without interest) to the excise tax return, Form 5000.24, covering the tax paid on beer produced in the United States and destroyed in accordance