

## Alcohol and Tobacco Tax and Trade Bureau, Treasury

## § 28.70

consent of surety, Form 1533, in accordance with its instructions.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1352, as amended, 1380, as amended (26 U.S.C. 5175, 5362))

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-62, 44 FR 71721, Dec. 11, 1979; T.D. TTB-8, 69 FR 3832, Jan. 27, 2004]

### § 28.65 Bond, Form 2738 (5110.68).

Whenever, under the provisions of this part, the claimant desires drawback of tax on distilled spirits or wines to be exported, laden for use on vessels or aircraft, or transferred to and deposited in a foreign-trade zone, or, in the case of distilled spirits, transferred to a customs bonded warehouse, as authorized in §§ 28.171 and 28.211, prior to the receipt of the certified copy of TTB Form 5110.30, or 1582-A (5120.24), as the case may be, as prescribed by this part, he shall file bond on Form 2738 (5110.68) as provided in § 28.51. The penal sum of the bond shall be sufficient to cover the amount of drawback which will at any time constitute a charge against the bond:

*Provided*, That the maximum penal sum shall not exceed \$200,000, but in no case shall the penal sum be less than \$1,000: *Provided further*, That where the claimant desires to remove distilled spirits to a customs bonded warehouse as provided in § 28.171(d) and the terms of his bond on Form 2738 (5110.68), then in force, do not cover such removals, he shall either file a consent of surety on Form 1533 to extend the terms of such bond to cover such removals or file a new bond on Form 2738 (5110.68).

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1336, as amended, 84 Stat. 1965; 19 U.S.C. 1309, 81c, 26 U.S.C. 5062, 5066)

[T.D. 7112, 36 FR 8580, May 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-62, 44 FR 71721, Dec. 11, 1979; T.D. ATF-198, 50 FR 8559, Mar. 1, 1985; T.D. TTB-8, 69 FR 3832, Jan. 27, 2004]

### § 28.66 Strengthening bonds.

In all cases where the penal sum of any bond becomes insufficient, the principal shall either give a strengthening bond with the same surety to attain a sufficient penal sum, or give a new bond to cover the entire liability. Strengthening bonds will not be ap-

proved where any notation is made thereon which is intended, or which may be construed, as a release of any former bond, or as limiting the amount of any bond to less than its full penal sum. Strengthening bonds shall show the current date of execution and the effective date.

(72 Stat. 1352, 1394; 26 U.S.C. 5175, 5551)

### § 28.67 New or superseding bonds.

New bonds shall be required in case of insolvency or removal of any surety, and may, at the discretion of the appropriate TTB officer, be required in any other contingency affecting the validity or impairing the efficiency of such bond. Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity, continuing or liquidating the business of the principal, shall execute and file a new bond or obtain the consent of the surety or sureties on the existing bond or bonds. Where, under the provisions of § 28.72, the surety on any bond given under this subpart has filed an application to be relieved of liability under said bond and the principal desires or intends to continue the business or operations to which such bond relates, he shall file a valid superseding bond to be effective on or before the date specified in the surety's notice. If the principal does not file a new or superseding bond when required, he shall discontinue the operations intended to be covered by such bond forthwith. New or superseding bonds shall show the current date of execution and the effective date.

(72 Stat. 1336, 1362; 26 U.S.C. 5062, 5214)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-62, 44 FR 71722, Dec. 11, 1979; T.D. TTB-8, 69 FR 3832, Jan. 27, 2004]

## TERMINATION OF BONDS

### § 28.70 Termination of bonds, Forms 2734 (5120.25) and 2736 (5100.12).

Bonds, Forms 2734 (5120.25) and 2736 (5100.12), covering a specific lot of distilled spirits or wines withdrawn without payment of tax under this part, will be canceled by the appropriate TTB officer on receipt by him of TTB Form 5100.11 properly executed by the