

by the United States as Security in Lieu of Surety or Sureties on Penal Bonds.

[T.D. ATF-199, 50 FR 9160, Mar. 6, 1985, as amended by T.D. ATF-207, 50 FR 23681, June 5, 1985; T.D. ATF-299, 55 FR 24989, June 19, 1990; T.D. ATF-459, 66 FR 38549, July 25, 2001; T.D. ATF-479, 67 FR 30798, May 8, 2002; T.D. TTB-8, 69 FR 3829, Jan. 27, 2004]

Subpart B—Definitions

§ 19.11 Meaning of terms.

When used in this part and in forms prescribed under this part, terms shall have the meaning ascribed in this section. Words in the plural form include the singular, and vice versa, and words indicating the masculine gender include the feminine. The terms “includes” and “including” do not exclude other things not enumerated which are in the same general class.

Alcoholic flavoring materials. Any non-beverage product on which drawback has been or will be claimed under 26 U.S.C. 5131–5134 or flavors imported free of tax which are unfit for beverage purposes. The term includes eligible flavors but does not include flavorings or flavoring extracts manufactured on the bonded premises of distilled spirits plant as an intermediate product.

Application for registration. The application required under 26 U.S.C. 5171(c).

Area supervisor. The supervisory officer of the Bureau of Alcohol, Tobacco and Firearms area office.

Article. A product, containing denatured spirits, which was manufactured under 27 CFR part 20 or this part.

ATF bond. For purposes of this part, ATF bond means the internal revenue bond as prescribed in 26 U.S.C. Chapter 51.

ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Bank. Any commercial bank.

Banking day. Any day during which a bank is open to the public for carrying on substantially all its banking functions.

Basic permit. The document authorizing the person named therein to engage in a designated business or activity under the Federal Alcohol Administration Act.

Bonded premises. The premises of a distilled spirits plant, or part thereof, as described in the application for registration, on which distilled spirits operations defined in 26 U.S.C. 5002 are authorized to be conducted.

Bottler. A proprietor of a distilled spirits plant qualified under this part as a processor who bottles distilled spirits.

Bulk container. Any approved container having a capacity in excess of one wine gallon.

Bulk conveyance. A tank car, tank truck, tank ship, tank barge, or a compartment of any such conveyance, or any other container approved by the Director for the conveyance of comparable quantities of spirits, including denatured spirits, and wines.

Bulk distilled spirits. The term *bulk distilled spirits* means distilled spirits in a container having a capacity in excess of one gallon.

Business day. Any day, other than a Saturday, Sunday, or a legal holiday. (The term legal holiday includes all holidays in the District of Columbia and statewide holidays in the particular State in which the claim, report, or return, as the case may be, is required to be filed, or the act is required to be performed.)

Carrier. Any person, company, corporation, or organization, including a proprietor, owner, consignee, consignee, or bailee, who transports distilled spirits, denatured spirits, or wine in any manner for himself or others.

CFR. The Code of Federal Regulations.

Commercial bank. A bank, whether or not a member of the Federal Reserve system, which has access to the Federal Reserve Communications System (FRCS) or Fedwire. The “FRCS” or “Fedwire” is a communications network that allows Federal Reserve system member banks to effect a transfer of funds for their customers (or other commercial banks) to the Treasury Account at the Federal Reserve Bank of New York.

Container. A receptacle, vessel, or form of bottle, can, package, tank or pipeline (where specifically included) used or capable of being used to contain, store, transfer, convey, remove,

or withdraw spirits and denatured spirits.

Denaturant or denaturing material. Any material authorized under 27 CFR part 21 for addition to spirits in the production of denatured spirits.

Denatured spirits. Spirits to which denaturants have been added as provided in 27 CFR part 21.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, DC.

Director of the service center. A director of an internal revenue service center.

Distilled spirits operations. Any authorized distilling, warehousing, or processing operations conducted on the bonded premises of a plant qualified under this part.

Distilling material. Any fermented or other alcoholic substance capable of, or intended for use in, the original distillation or other original processing of spirits.

District director. A district director of internal revenue.

Effective tax rate. The net tax rate after reduction for any credit allowable under 26 U.S.C. 5010 for wine and flavor content at which the tax imposed on distilled spirits by 26 U.S.C. 5001 or 7652 is paid or determined.

Electronic fund transfer or EFT. Any transfer of funds effected by a proprietor's commercial bank, either directly or through a correspondent banking relationship, via the Federal Reserve Communications System (FRCS) or Fedwire to the Treasury Account at the Federal Reserve Bank of New York.

Eligible flavor. A flavor which:

(1) Is of a type that is eligible for drawback of tax under 26 U.S.C. 5134,

(2) Was not manufactured on the premises of a distilled spirits plant, and

(3) Was not subjected to distillation on distilled spirits plant premises such that the flavor does not remain in the finished product.

Eligible wine. Wine on which tax would be imposed by paragraph (1), (2), or (3) of 26 U.S.C. 5041(b) but for its removal to distilled spirits plant premises and which has not been subject to distillation at a distilled spirits plant after receipt in bond.

Export or exportation. A severance of goods from the mass of things belonging to the United States with the intention of uniting them to the mass of things belonging to some foreign country and shall include shipments to any possession of the United States. For the purposes of this part, shipments to the Commonwealth of Puerto Rico, and to the territories of the Virgin Islands, American Samoa, and Guam, shall also be treated as exportations.

Fermenting material. Any material which is to be subjected to a process of fermentation to produce distilling material.

Fiduciary. A guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

Fiscal year. The period October 1 of one calendar year through September 30 of the following year.

Gallon or wine gallon. The liquid measure equivalent to the volume of 231 cubic inches.

In bond. When used with respect to spirits, denatured spirits, articles, or wine refers to spirits, denatured spirits, articles, or wine possessed under bond to secure the payment of the taxes imposed by 26 U.S.C. Chapter 51, and on which such taxes have not been determined. The term includes such spirits, denatured spirits, articles, or wine on the bonded premises of a distilled spirits plant, such spirits, denatured spirits, or wines in transit between bonded premises (including, in the case of wine, bonded wine cellar premises). Additionally, the term refers to spirits in transit from customs custody to bonded premises, and spirits withdrawn without payment of tax under 26 U.S.C. 5214, and with respect to which relief from liability has not occurred under the provisions of 26 U.S.C. 5005(e)(2).

Industrial use. As applied to spirits, shall have the meaning ascribed in 27 CFR part 2.

Intermediate product. Any product manufactured pursuant to an approved formula under 27 CFR part 5, not intended for sale as such but for use in the manufacture of a distilled spirits product.

I.R.C. The Internal Revenue Code of 1954, as amended.

Kind. As applied to spirits, except as provided in §19.597, kind shall mean class and type as prescribed in 27 CFR part 5. As applied to wines, kind shall mean the classes and types of wines as prescribed in 27 CFR part 4.

Liquor bottle. A bottle made of glass or earthenware, or of other suitable material approved by the Food and Drug Administration, which has been designed or is intended for use as a container for distilled spirits for sale for beverage purposes and which has been determined by the Director to protect the revenue adequately.

Liter. A metric unit of capacity equal to 1,000 cubic centimeters of alcoholic beverage, and equivalent to 33.814 fluid ounces. A liter is divided into 1,000 milliliters. Milliliter or milliliters may be abbreviated as "ml."

Lot identification. The lot identification described in §19.593.

Mash, wort, wash. Any fermented material capable of, or intended for, use as a distilling material.

Nonindustrial use. As applied to spirits, shall have the meaning ascribed in 27 CFR part 2.

Operating permit. The document issued pursuant to 26 U.S.C. 5171(d), authorizing the person named therein to engage in the business or operation described therein.

Package. A cask or barrel or similar wooden container, or a drum or similar metal container.

Package identification number. The package identification number described in §19.593.

Person. An individual, trust, estate, partnership, association, company, or corporation.

Plant or distilled spirits plant. An establishment qualified under this part for distilling, warehousing, processing or any combination thereof.

Plant number. The number assigned to a distilled spirits plant by the regional director (compliance).

Processor. Except as otherwise provided under 26 U.S.C. 5002(a)(6), any person qualified under this part who manufactures, mixes, bottles, or otherwise processes distilled spirits or denatured spirits, or manufactures any article.

Proof. The ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated

as twice the percent of ethyl alcohol by volume.

Proof of distillation. The composite proof of the spirits at the time the production gauge is made, or, if the spirits had been reduced in proof prior to the production gauge, the proof of the spirits prior to such reduction, unless the spirits are subsequently redistilled at a higher proof than the proof prior to reduction.

Proof gallon. A gallon of liquid at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity, or the alcoholic equivalent thereof.

Proprietor. The person qualified under this part to operate the distilled spirits plant.

Reconditioning. The dumping of distilled spirits products in bond after their bottling or packaging, for purposes other than destruction, denaturation, redistillation, or rebottling. The term may include the filtration, clarification, stabilization, or reformulation of a product.

Recovered article. An article containing specially denatured spirits salvaged without all of its original ingredients, or an article containing completely denatured alcohol salvaged without all of the denaturants for completely denatured alcohol, under 27 CFR part 20.

Region. A Bureau of Alcohol, Tobacco and Firearms region.

Region director (compliance). The principal regional official responsible for administering regulations in this part.

Season. The period from January 1 through June 30, is the spring season, and the period from July 1 through December 31 is the fall season.

Secretary. The Secretary of the Treasury or his delegate.

Service center. An Internal Revenue Service Center in any of the Internal Revenue regions.

Spirits or distilled spirits. That substance known as ethyl alcohol, ethanol, or spirits of wine in any form (including all dilutions and mixtures thereof, from whatever source or by whatever process produced) but not denatured spirits unless specifically stated. The term does not include mixtures

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of distilled spirits and wine, bottled at 48° proof or less, if the mixture contains more than 50 percent wine on a proof gallon basis.

Spirits residues. Residues, containing distilled spirits, of a manufacturing process related to the production of an article under 27 CFR part 20.

Tax-determined or determined. When used with respect to the tax on any distilled spirits to be withdrawn from bond on determination of tax, shall mean that the taxable quantity of spirits has been established.

Taxpaid. When used with respect to distilled spirits shall mean that all applicable taxes imposed by law in respect of such spirits have been determined or paid as provided by law.

This chapter. Title 27, Code of Federal Regulations, Chapter I (27 CFR Chapter I).

Transfer in bond. The removal of spirits, denatured spirits and wines from one bonded premises to another bonded premises.

Treasury Account. The Department of the Treasury's General Account at the Federal Reserve Bank of New York.

Unfinished spirits. Spirits in the production system prior to production gauge.

U.S.C. The United States Code.

Warehouseman. A proprietor of a distilled spirits plant qualified under this part to store bulk distilled spirits.

Wine spirits. The term "wine spirits" means spirits authorized for use in wine production by 26 U.S.C. 5373.

[T.D. ATF-198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF-199, 50 FR 9160, Mar. 6, 1985; T.D. ATF-206, 50 FR 23951, June 7, 1985; T.D. ATF-230, 51 FR 21748, June 16, 1986; T.D. ATF-297, 55 FR 18061, Apr. 30, 1990; T.D. ATF-398, 63 FR 44783, Aug. 21, 1998]

Subpart C—Taxes

GALLONAGE TAXES

§ 19.21 Tax.

(a) A tax is imposed by 26 U.S.C. 5001 and 7652 on all spirits produced in, imported into or brought into the United States at the rate prescribed in section 5001 on each proof gallon and a proportionate tax at a like rate on all fractional parts of a proof gallon. Wines containing more than 24 percent of al-

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cohol by volume are taxed as spirits. All products of distillation, by whatever name known, which contain spirits, on which the tax imposed by law has not been paid, and any alcoholic ingredient added to such products, are considered and taxed as spirits.

(b) A credit against the tax imposed on distilled spirits by 26 U.S.C. 5001 or 7652 is allowable under 26 U.S.C. 5010 on each proof gallon of alcohol derived from eligible wine or from eligible flavors which do not exceed 2½ percent of the finished product on a proof gallon basis. The credit is allowable at the time the tax is payable as if it constituted a reduction in the rate of tax.

(c) Where credit against the tax is desired, the person liable for the tax shall establish an effective tax rate in accordance with § 19.34. The effective tax rate established will be applied to each withdrawal or other taxable disposition of the distilled spirits.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended (26 U.S.C. 5001); Sec. 6, Pub. L. 96-598, 94 Stat. 3488, as amended (26 U.S.C. 5010); Act of August 16, 1954, Pub. L. 591, 68A Stat. 907, as amended (26 U.S.C. 7652)).

[T.D. ATF-297, 55 FR 18061, Apr. 30, 1990]

§ 19.22 Attachment of tax.

Under 26 U.S.C. 5001(b), the tax attaches to spirits as soon as the substance comes into existence as such, whether it be subsequently separated as pure or impure spirits, or be immediately, or at any subsequent time, transferred into any other substance, either in the process of original production, or by any subsequent process.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended (26 U.S.C. 5001))

§ 19.23 Lien.

Under 26 U.S.C. 5004, the tax becomes a first lien on the spirits from the time the spirits come into existence as such. The conditions under which the first lien shall be terminated are described in 26 U.S.C. 5004.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1317, as amended (26 U.S.C. 5004))

[T.D. ATF-198, 50 FR 8464, Mar. 1, 1985; 50 FR 23410, June 4, 1985]