

## § 19.21

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*Tax-determined or determined.* When used with respect to the tax on any distilled spirits to be withdrawn from bond on determination of tax, shall mean that the taxable quantity of spirits has been established.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