

§ 194.102

Retail dealer in liquors (spirits, wines, beer)250
Retail dealer in beer (beer only)250

(Sec. 201, Pub. L. 85-859, 72 Stat. 1340, 1343; sec. 1905, Pub. L. 94-455, 90 Stat. 1819 (26 U.S.C. 5111, 5121))

[T.D. ATF-271, 53 FR 17552, May 17, 1988; 54 FR 11866, Mar. 22, 1989]

§ 194.102 Date special tax is due.

Special taxes shall be paid on or before July 1 of each year, or before engaging in business.

(72 Stat. 1346; 26 U.S.C. 5142)

§ 194.103 Computation of special tax.

(a) General. In the case of a person engaged in a business subject to special tax during the month of July, the special tax liability shall be reckoned for the entire tax year beginning July 1 and ending June 30 following. Where business is commenced subsequent to July, the liability shall be reckoned proportionately from the first day of the month in which the liability to a special tax commenced to June 30 following. For example, a person commencing business in August is liable to special tax for 11 months, or eleventwelfths of the annual tax.

(b) Transition rule. A taxpayer who was engaged in a business on January 1, 1988, for which a special (occupational) tax was paid for a taxable period which began before January 1, 1988, and included that date, shall pay an increased special tax for the period January 1, 1988, through June 30, 1988. The increased tax shall not exceed one-half the excess (if any) of (1) the rate of special tax in effect on January 1, 1988, over (2) the rate of such tax in effect on December 31, 1987. The increased special tax shall be paid on or before April 1, 1988.

(72 Stat. 1346; 26 U.S.C. 5142)

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55843, Sept. 28, 1979; T.D. ATF-271, 53 FR 17554, May 17, 1988]

FILING RETURN AND PAYMENT OF SPECIAL TAX

§ 194.104 Time for filing return.

Every person who intends to engage in a business subject to special tax

under the provisions of this part shall, on or before the date such business is commenced, file a special tax return, Form 5630.5, with payment of tax; and every taxpayer who continues into a new tax year a business subject to special tax under the provisions of this part shall file a Form 5630.5 with tax on or before July 1 of the new tax year. A taxpayer subject to special tax for the same period at two or more locations shall file one special tax return, Form 5630.5, prepared as provided in §194.106, with payment of tax to cover all such locations. If the return and tax are received in the mail and the U.S. postmark on the cover shows that it was deposited in the mail in the United States within the time prescribed for filing in an envelope or other appropriate wrapper which was properly addressed with postage prepaid, the return shall be considered as timely filed. If the postmark is not legible, the sender has the burden of proving the date when the postmark was made. When registered mail is used the date of registration shall be accepted as the postmark date.

(68A Stat. 732 as amended, 749 as amended (26 U.S.C. 6011, 6071); sec. 201, Pub. L. 85-859, 72 Stat. 1346 as amended (26 U.S.C. 5142))

[T.D. ATF-70, 45 FR 33979, May 21, 1980, as amended by T.D. ATF-251, 52 FR 19335, May 22, 1987]

§ 194.104a Place for filing return.

Form 5630.5 with remittance of tax shall be filed with ATF in accordance with the instructions on the form.

[T.D. ATF-251, 52 FR 19335, May 22, 1987]

§ 194.105 Method of payment.

Payment of special tax shall be made in cash, or by check or money order payable to "Bureau of Alcohol, Tobacco and Firearms". If a check or money order so tendered is not honored when presented for payment, the person who tendered such check or money order shall remain liable for the payment of the special tax, and for all penalties and additions, to the same extent as if the check or money order had not been tendered. In addition, unless the person who tendered the check or money order can show that such check or money order was issued in good