

§ 194.30

§ 194.30 Restaurants serving liquors with meals.

Proprietors of restaurants and other persons who serve liquors with meals to customers, though no separate or specific charge for the liquors is made, shall pay special tax.

(72 Stat. 1344; 26 U.S.C. 5122)

§ 194.31 States, political subdivisions thereof, or the District of Columbia.

A State, a political subdivision thereof, or the District of Columbia which engages in the business of selling, or offering for sale, distilled spirits, wines, or beer is not exempt from special tax. However, no such governmental entity shall be required to pay more than one special tax as a retail dealer in liquors regardless of the number of locations at which such entity carries on business as a retail dealer in liquors. Any such governmental entity which has paid the applicable wholesale dealer special tax at its principal office, and has paid the applicable special tax as a retail dealer, shall not be required to pay additional wholesale dealer special tax at its retail stores by reason of the sale thereof of distilled spirits, wines, or beer, to dealers qualified to do business as such within the jurisdiction of such entity.

(72 Stat. 1340, 1343, 1344, as amended; 26 U.S.C. 5111, 5113, 5121, 5123)

[T.D. 7130, 36 FR 12852, July 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975]

§ 194.32 Sales of denatured spirits or articles.

Any person who sells denatured spirits or any substance or preparation made with or containing denatured spirits for use, or for sale for use, for beverage purposes, or who sells any of such products under circumstances from which it might reasonably appear that it is the intention of the purchaser to procure the same for sale or use for beverage purposes, shall pay special tax.

(72 Stat. 1314; 26 U.S.C. 5001)

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§ 194.33 Sales of alcoholic compounds, preparations, or mixtures containing distilled spirits, wines, or beer.

(a) *Special tax liability.* Special tax liability will be incurred with respect to the sale, or offering for sale, of alcoholic compounds, preparations, or mixtures containing distilled spirits, wines, or beer, unless such compounds, preparations, or mixtures are unfit for use for beverage purposes and are sold solely for use for nonbeverage purposes.

(b) *Products unfit for beverage use.* Products meeting the requirements for exemption from qualification under the provisions of §19.58 of this chapter shall be deemed to be unfit for beverage purposes for the purposes of this part.

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-379, 61 FR 31426, June 20, 1996]

§ 194.34 Sales by agencies and instrumentalities of the United States.

Unless specifically exempt by statute, any agency or instrumentality of the United States, including post exchanges, ship's stores, ship's service stores, and commissaries, or any canteen, club, mess, or similar organization operated under regulations of any such agency or instrumentality, which sells, or offers for sale, distilled spirits, wines, or beer shall pay special tax as a dealer in liquors or as a dealer in beer, as the case may be, for carrying on such business.

(72 Stat. 1340, 1343, 1347; 26 U.S.C. 5111, 5121, 5143)

§ 194.35 Warehouse receipts covering spirits.

Since the sale of warehouse receipts for distilled spirits is equivalent to the sale of distilled spirits, every person who sells or offers for sale warehouse receipts for spirits held or stored in a distilled spirits plant, customs bonded warehouse, or elsewhere, is required to file a special tax return and pay special tax as a wholesale dealer in liquors, or as a retail dealer in liquors, as the case may be, at the place where such warehouse receipts are sold, or offered for

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sale, unless exempt by the provisions of subpart L, of this part.

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

Subpart D—Administrative Provisions

§ 194.41 Forms prescribed.

(a) The Director is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part.

(b) Requests for forms should be mailed to the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153.

(5 U.S.C. 552(a); 80 Stat. 383, as amended)

[T.D. ATF-92, 46 FR 46916, Sept. 23, 1981, as amended by T.D. ATF-249, 52 FR 5962, Feb. 27, 1987; T.D. 372, 61 FR 20725, May 8, 1996]

§ 194.42 Right of entry and examination.

Any ATF officer may enter during business hours the premises (including places of storage) of any dealer for the purpose of inspecting or examining any records or other documents required to be kept by such dealer under this part and any distilled spirits, wines, or beer kept or stored by such dealer on such premises.

(72 Stat. 1348; 26 U.S.C. 5146)

Subpart E—Places Subject to Special Tax

§ 194.51 Special tax liability incurred at each place of business.

Except as provided in §§ 194.31 and 194.181 through 194.193, liability to special tax is incurred at each and every place where distilled spirits, wines, or beer are sold or offered for sale: *Provided*, That the term “place” as used in this section means the entire office, plant or area of the business in any one location under the same proprietorship; and passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises shall not be deemed sufficient separation to re-

quire the payment of addition special tax, if the various divisions are otherwise contiguous.

(72 Stat. 1347; 26 U.S.C. 5143)

[T.D. 7130, 36 FR 12852, July 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975]

§ 194.52 Place of sale.

The place at which ownership of liquors is transferred, actually or constructively, is the place of sale.

(72 Stat. 1347; 26 U.S.C. 5143)

§ 194.53 Place of offering for sale.

Liquors are offered for sale (a) at the place where they are kept for sale and where a sale may be effected, or (b) at any place where sales are consummated. Liquors are not offered for sale by sending abroad an agent to take orders, or by establishing an office for the mere purpose of taking orders, provided in each case the orders received are transmitted to the principal for acceptance at the place where he holds a special tax stamp or is exempt from special tax as provided in subpart L of this part.

(72 Stat. 1347; 26 U.S.C. 5143)

§ 194.54 Places of storage; deliveries therefrom.

Special tax is not required to be paid for warehouses and similar places which are used by dealers merely for the storage of liquors and are not places where orders for liquors are accepted. Where orders for liquors are received and duly accepted at a place where the dealer holds the required special tax stamp, the subsequent actual delivery of the liquors from a place of storage does not require the payment of special tax at such place of storage. Except as provided in §§ 194.185 and 194.186, a dealer holding a special tax stamp at a given place, who makes actual delivery of liquors from a warehouse at another place, without prior constructive delivery by the acceptance of an order therefor at the place covered by the special tax stamp, shall pay special tax at the place where ownership of the liquors is transferred.

(72 Stat. 1340, 1347; 26 U.S.C. 5113, 5143)