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name sold or offered for sale, containing not over 24 percent alcohol by volume.

(68A Stat. 917, as amended (26 U.S.C. 7805); 49 Stat. 981, as amended (27 U.S.C. 205); 26 U.S.C. 7805 (68A Stat. 917, as amended), and in 27 U.S.C. 205 (49 Stat. 981, as amended))

[T.D. ATF-48, 43 FR 13552, Mar. 31, 1978, as amended by T.D. ATF-50, 43 FR 37180, Aug. 22, 1978; 44 FR 55853, Sept. 28, 1979; T.D. ATF-62, 44 FR 71718, Dec. 11, 1979; T.D. ATF-114, 47 FR 43950, Oct. 5, 1982; T.D. ATF-198, 50 FR 8555, Mar. 1, 1985; T.D. ATF-206, 50 FR 23955, June 7, 1985; T.D. ATF-251, 52 FR 19339, May 22, 1987; T.D. ATF-297, 55 FR 18069, Apr. 30, 1990; T.D. ATF-398, 63 FR 44784, Aug. 21, 1998; T.D. ATF-474, 67 FR 11232, Mar. 13, 2002]

Subpart C—Special (Occupational) Taxes

§ 27.30 Special (occupational) tax.

Importers engaged in the business of selling, or offering for sale, distilled spirits, wines or beer are subject to the provisions of part 194 of this chapter relating to special (occupational) taxes. Part 194 requires that the special tax return, Form 5630.5, with payment of the tax, shall be filed with ATF in accordance with the instruction on the form, before commencing business. Subsequently, Form 5630.5 with tax shall be filed each year on or before July 1, as long as the proprietor continues in business.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1340 as amended, 1343 as amended, 1344 as amended (26 U.S.C. 5111, 5112, 5121, 5122))

[T.D. ATF-70, 45 FR 33981, May, 21, 1980, as amended by T.D. ATF-251, 52 FR 19339, May 22, 1987]

§ 27.31 Warehouse receipts covering distilled spirits.

Since the sale of warehouse receipts for distilled spirits is equivalent to the sale of distilled spirits, every person engaged in business as an importer of distilled spirits, who sells, or offers for sale, warehouse receipts for distilled spirits stored in customs bonded warehouses, or elsewhere, incurs liability to special tax as a dealer in liquors at the place where the warehouse receipts are sold or offered for sale, and must file

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return and pay occupational tax as provided in § 27.30.

(68A Stat. 618, 620, 621; 26 U.S.C. 5111, 5112, 5121, 5122)

Subpart D—Tax On Imported Distilled Spirits, Wines, and Beer

DISTILLED SPIRITS

§ 27.40 Distilled spirits.

(a) A tax is imposed on all distilled spirits in customs bonded warehouses or imported into the United States at the rate prescribed by 26 U.S.C. 5001 on each proof gallon and a proportionate tax at a like rate on all fractional parts of each proof gallon. All products of distillation, by whatever name known, which contain distilled spirits, are considered to be distilled spirits and are taxed as such. The tax will be determined at the time of importation, or, if entered into bond, at the time of withdrawal therefrom.

(b) A credit against the tax imposed on distilled spirits by 26 U.S.C. 5001 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 § 27.41. The effective tax rate established will be applied to each entry.

(Approved by the Office of Management and Budget under control number 1512-0352.)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended (26 U.S.C. 5001); Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201); Sec. 6, Pub. L. 96-598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

[T.D. ATF-297, 55 FR 18069, Apr. 30, 1990]

§ 27.41 Computation of effective tax rate.

(a) The proprietor shall compute the effective tax rate for distilled spirits containing eligible wine or eligible flavors as the ratio of the numerator and denominator as follows:

(1) The numerator will be the sum of:

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(i) The proof gallons of all distilled spirits used in the product (exclusive of distilled spirits derived from eligible flavors), multiplied by the tax rate prescribed by 26 U.S.C. 5001;

(ii) The wine gallons of each eligible wine used in the product, multiplied by the tax rate prescribed by 26 U.S.C. 5041(b)(1), (2), or (3), as applicable; and

(iii) The proof gallons of all distilled spirits derived from eligible flavors used in the product, multiplied by the tax rate prescribed by 26 U.S.C. 5001, but only to the extent that such distilled spirits exceed 2½% of the denominator prescribed in paragraph (a)(2) of this section.

(2) The denominator will be the sum of:

(i) The proof gallons of all distilled spirits used in the product, including distilled spirits derived from eligible flavors; and

(ii) The wine gallons of each eligible wine used in the product, multiplied by twice the percentage of alcohol by volume of each, divided by 100.

(b) In determining the effective tax rate, quantities of distilled spirits, eligible wine, and eligible flavors will be expressed to the nearest tenth of a proof gallon. The effective tax rate may be rounded to as many decimal places as the proprietor deems appropriate, provided that, such rate is expressed no less exactly than the rate rounded to the nearest whole cent, and the effective tax rates for all products will be consistently expressed to the same number of decimal places. In such case, if the number is less than five it will be dropped; if it is five or over, a unit will be added.

(c) The following is an example of the use of the formula.

BATCH RECORD

Distilled spirits	2249.1 proof gallons.
Eligible wine (14% alcohol by volume)	2265.0 wine gallons.
Eligible wine (19% alcohol by volume)	1020.0 wine gallons.
Eligible flavors	100.9 proof gallons.

$$\frac{2249.1(\$13.50) + 2265.0(\$1.07) + 1020(\$1.57) + 16.6^1(\$13.50)}{2249.1 + 100.9 + (2265.0 \times .28) + (1020 \times .38)} = \frac{\$30,362.85 + \$2,423.55 + \$1,601.40 + \$224.10}{2,350.0 + 634.2 + 387.6} = \frac{\$34,611.90}{3,371.8} = \$10.27, \text{ the effective tax rate.}$$

(Approved by the Office of Management and Budget under control number 1512-0352)

(Sec. 6, Pub. L. 96-598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

[T.D. ATF-297, 55 FR 18069, Apr. 30, 1990, as amended by T.D. ATF-307, 55 FR 52742, Dec. 21, 1990. Redesignated by T.D. ATF-474, 67 FR 11232, Mar. 13, 2002]

WINES

§ 27.42 Wines.

All wines (including imitation, substandard, or artificial wine, and compounds sold as wine) having not in excess of 24 percent of alcohol by volume, in customs bonded warehouse or imported into the United States are sub-

ject to an internal revenue tax at the rates prescribed by law; such tax to be determined at the time of removal from customs custody for consumption or sale. The tax is imposed on each wine gallon and at a like rate on fractional parts of a wine gallon. Fractions of less than one-tenth gallon shall be

¹Proof gallons by which distilled spirits derived from eligible flavors exceed 2½% of the

total proof gallons in the batch (100.9 - (2½%) × 3.371.8 = 16.6).