

**§ 24.271**

**27 CFR Ch. I (4-1-08 Edition)**

containing more than 24 percent of alcohol by volume is classed as distilled spirits and taxed accordingly. The tax is determined and paid on the volume of wine:

(a) In bottles or other containers filled according to United States measure recorded to the nearest 10th gallon; or,

(b) In bottles or other containers filled according to metric measure, on the volume of wine in United States wine gallons to the nearest 10th gallon; or

(c) In the case of pipeline removals, on the volume of bulk wine removed recorded to the nearest whole gallon, five-tenths gallon being converted to the next full gallon. (Sec. 201, Pub. L. 85-859, 72 Stat. 1331, as amended (26 U.S.C. 5041))

See §§ 24.278 and 24.279 of this part for regulations concerning credit against the wine tax for certain bonded wine premises proprietors.

[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-307, 55 FR 52737, Dec. 21, 1990]

**§ 24.271 Payment of tax by return with remittance.**

(a) *General.* The tax on wine is paid by an Excise Tax Return, Form 5000.24, which is filed with remittance (check, cash, or money order) for the full amount of tax due. Prepayments of tax on wine during the period covered by the return are shown separately on the Excise Tax Return form. If no tax is due for the return period, the filing of a return is not required.

(b) *Return periods and due dates—(1) Return periods.* (i) *Definitions.* For purposes of this section, the following terms have the meanings indicated:

*Reasonably expects.* When used with reference to a taxpayer, *reasonably expects* means the taxpayer was not liable for more than \$50,000 in taxes the previous year and there is no other existing or anticipated circumstance known to the taxpayer (such as an increase in production capacity) that would cause the taxpayer's liability to increase beyond that limit.

*Taxpayer.* A *taxpayer* is a person who is liable for excise tax imposed with respect to wine by 26 U.S.C. 5041 and 7652 under the same Employer Identifica-

tion Number as defined in 26 CFR 301.7701-12.

(ii) *Semimonthly return period.* Except in the case of a taxpayer who qualifies for, and chooses to use, the annual return period as provided in § 24.273 or the quarterly return period as provided in paragraph (b)(1)(iii) of this section, all taxpayers who have filed a bond for deferred payment of taxes must use semimonthly return periods. The semimonthly return periods shall run from the 1st day through the 15th day of each month, and from the 16th day through the last day of each month, except as otherwise provided in paragraph (c) of this section.

(iii) *Quarterly return period.* Effective January 1, 2006, a taxpayer who has filed a bond for deferred payment of taxes, who reasonably expects to be liable for not more than \$50,000 in taxes with respect to wine imposed by 26 U.S.C. 5041 and 7652 for the current calendar year, and who was liable for not more than \$50,000 in such taxes in the preceding calendar year, may choose to use a quarterly return period. In such a case the last day for payment of tax and filing the return will be the 14th day after the last day of the calendar quarter. However, the taxpayer may not use the quarterly return period procedure for any portion of the calendar year following the first date on which the aggregate amount of tax due from the taxpayer during the calendar year exceeds \$50,000, and any tax which has not been paid on that date will be due on the 14th day after the last day of the semimonthly period in which that date occurs.

(2) *Semimonthly and quarterly tax return due dates.* The taxpayer shall file the semimonthly or quarterly return, with remittance, for each return period not later than the 14th day after the last day of the return period. If the due date falls on a Saturday, Sunday, or legal holiday, the return and remittance shall be due on the immediately preceding day which is not a Saturday, Sunday, or legal holiday, except as otherwise provided in paragraph (c)(3) of this section.

(c) *Special September rule for taxes due by semimonthly return*(1) *Division of second semimonthly period—(i) General.* Except as provided in paragraph (c)(1)(ii)

of this section, the second semi-monthly period for the month of September shall be divided into two payment periods, from the 16th day through the 26th day, and from the 27th day through the 30th day. The proprietor shall file a return on Form 5000.24, and make remittance, for the period September 16-26, no later than September 29. The proprietor shall file a return on Form 5000.24, and make remittance, for the period September 27-30, no later than October 14.

(ii) *Taxpayment not by electronic fund transfer.* In the case of taxes not required to be remitted by electronic fund transfer as prescribed by § 24.272, the second semi-monthly period of September shall be divided into two payment periods, from the 16th day through the 25th day, and the 26th day through the 30th day. The proprietor shall file a return on Form 5000.24, and make remittance, for the period September 16-25, no later than September 28. The proprietor shall file a return on Form 5000.24, and make remittance, for the period September 26-30, no later than October 14.

(2) *Amount of payment: Safe harbor rule.* (i) Taxpayers are considered to have met the requirements of paragraph (c)(1)(i) of this section, if the amount paid no later than September 29 is not less than 11/15 (73.3 percent) of the tax liability incurred for the semi-monthly period beginning on September 1 and ending on September 15, and if any underpayment of tax is paid by October 14.

(ii) Taxpayers are considered to have met the requirements of paragraph (c)(1)(ii) of this section, if the amount paid no later than September 28 is not less than 2/3rds (66.7 percent) of the tax liability incurred for the semi-monthly period beginning on September 1 and ending on September 15, and if any underpayment of tax is paid by October 14.

(3) *Last day for payment.* If the required due date for taxpayment for the periods September 16-25 or September 16-26 as applicable, falls on a Saturday or legal holiday, the return and remittance shall be due on the immediately preceding day. If the required due date falls on a Sunday, the return and re-

mittance shall be due on the immediately following day.

(4) *Example. Payment of tax for the month of September.* (i) *Facts.* X, a proprietor required to pay taxes by electronic fund transfer, incurred tax liability in the amount of \$30,000 for the first semi-monthly period of September. For the period September 16-26, X incurred tax liability in the amount of \$45,000, and for the period September 27-30, X incurred tax liability in the amount of \$2,000.

(ii) *Payment requirement.* X's payment of tax in the amount of \$30,000 for the first semi-monthly period of September is due no later than September 29 (§ 24.271(b)). X's payment of tax for the period September 16-26 is also due no later than September 29 (§ 24.271(c)(1)(i)). X may use the safe harbor rule to determine the amount of payment due for the period of September 16-26 (§ 24.271(c)(2)). Under the safe harbor rule, X's payment of tax must equal \$21,990.00, 11/15ths of the tax liability incurred during the first semi-monthly period of September. Additionally, X's payment of tax in the amount of \$2,000 for the period September 27-30 must be paid no later than October 14 (§ 24.271(c)(1)(i)). X must also pay the underpayment of tax, \$23,010.00, for the period September 16-26, no later than October 14 (§ 24.271(c)(2)).

(Approved by the Office of Management and Budget under control numbers 1512-0467 and 1512-0492)

[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-365, 60 FR 33668, June 28, 1995; T.D. TTB-41, 71 FR 5602, Feb. 2, 2006]

#### § 24.272 Payment of tax by electronic fund transfer.

(a) *General.* (1) During a calendar year any proprietor who is liable for a gross amount of wine excise tax equal to or exceeding \$5 million combining tax liabilities incurred under this part and parts 26 and 27 of this chapter, shall during the succeeding calendar year use a financial institution in making payment by electronic fund transfer (EFT) of wine taxes for that year. A proprietor who is required by this section to make remittance by EFT may not effect payment of wine taxes by cash, check, or money order as described in § 24.271.