

§ 25.111b

tax rate is zero during the suspension period described in § 25.111(c).

(26 U.S.C. 5091)

[T.D. ATF-271, 53 FR 17547, May 17, 1988, as amended by T.D. TTB-36, 70 FR 62245, Oct. 31, 2005]

§ 25.111b Reduced rate of tax for small brewers.

(a) *General.* Effective January 1, 1988, 26 U.S.C. 5091(b) provides for a reduced rate of tax with respect to any brewer whose gross receipts (for the most recent taxable year ending before the first day of the taxable period to which the tax imposed by § 25.111 relates) are less than \$500,000. The rate of tax for such a brewer is \$500 a year, except that the tax rate is zero during the suspension period described in § 25.111(c). The "taxable year" to be used for determining gross receipts is the taxpayer's income tax year. All gross receipts of the taxpayer shall be included, not just the gross receipts of the business subject to special tax. Proprietors of new businesses that have not yet begun a taxable year, as well as proprietors of existing businesses that have not yet ended a taxable year, who commence a new activity subject to special tax, qualify for the reduced special (occupational) tax rate, unless the business is a member of a "controlled group"; in that case, the rules of paragraph (b) of this section shall apply.

(b) *Controlled group.* In determining gross receipts, all persons treated as one taxpayer under 26 U.S.C. 5061(e)(3) shall be treated as one taxpayer for purposes of paragraph (a) of this section. "Controlled group" means a controlled group of corporations, as defined in 26 U.S.C. 1563, and implementing regulations in 26 CFR 1.1563-1 through 1.1563-4, except that the words "at least 80 percent" shall be replaced by the words "more than 50 percent" in each place they appear in subsection (a) of 26 U.S.C. 1563, as well as in the implementing regulations. Also, the rules for a "controlled group of corporations" apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50% control over a group consisting of corporations and one, or more, partnerships and/or

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

sole proprietorships, all of the members of the controlled group are one taxpayer for the purpose of this section.

(c) *Short taxable year.* Gross receipts for any taxable year of less than 12 months shall be annualized by multiplying the gross receipts for the short period by 12 and dividing the result by the number of months in the short period as required by 26 U.S.C. 448(c)(3).

(d) *Returns and allowances.* Gross receipts for any taxable year shall be reduced by returns and allowances made during that year under 26 U.S.C. 448(c)(3).

(26 U.S.C. 448, 5061, 5091)

[T.D. ATF-271, 53 FR 17547, May 17, 1988, as amended by T.D. TTB-36, 70 FR 62245, Oct. 31, 2005]

§ 25.112 Wholesaler's special tax.

A brewer shall be subject to or exempt from a wholesaler's special (occupational) tax as provided in part 31 of this chapter.

(26 U.S.C. 5111, 5142)

[T.D. ATF-271, 53 FR 17548, May 17, 1988, as amended by T.D. TTB-25, 70 FR 19883, Apr. 15, 2005]

§ 25.113 Each place of business taxable.

(a) *General.* A brewer incurs special tax liability, or must register by filing the special tax return during the suspension period described in § 25.111(c), for each place of business in which an occupation subject to special tax is conducted. A place of business means the entire office, plant or area of the business in any one location under the same proprietorship. Passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises are not sufficient separation to require additional special tax, if the divisions of the premises are otherwise contiguous.

(b) *Exception for contiguous areas.* A brewer will not incur additional special tax liability (or will not have to register during the suspension period described in § 25.111(c)) for sales of beer made at a location other than on brewery premises described on the brewer's notice, Form 5130.10, if the location