

§ 26.304

gauge the spirits in such container. If the spirits are in a bulk conveyance, the customs officer shall record the elements of his gauge on the transfer record, or, if the spirits are in packages, on the gauge record required by § 26.302, and attach it to the transfer record. The customs officer shall also record on the transfer record the port of entry, carrier identification, and warehouse entry number. When the consignee has complied with all customs requirements, the customs officer shall release the spirits for transfer to the distilled spirits plant, by dating and signing the transfer record with his title the statement: "To the best of my knowledge the information hereon is accurate and the spirits are released". The customs officer shall retain a copy of the transfer record and any attachment, forward a copy of the transfer record and any attachments to the appropriate TTB officer, and give the original of the transfer record with any attachments to the consignee.

[T.D. ATF-198, 50 FR 8555, Mar. 1, 1985. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001]

§ 26.304 Bulk conveyances to be sealed.

When a shipment of distilled spirits from customs custody to the distilled spirits plant is made in a tank, tank barge, cargo container, tank car, tank truck, or similar bulk conveyance, all openings affording access to the spirits shall be sealed by the customs officer with customs seals in such manner as will prevent unauthorized removal of spirits through such openings without detection.

§ 26.305 Receipt by consignee.

Proprietors of distilled spirits plants who receive Virgin Islands spirits under this subpart shall follow the requirements in 27 CFR part 19 for spirits received by transfer in bond. However, proprietors are not required to file application on TTB Form 5100.16 to receive Virgin Islands spirits from customs custody.

[T.D. ATF-198, 50 FR 8555, Mar. 1, 1985]

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Subpart Ob—Claims for Drawback on Eligible Articles From the Virgin Islands

SOURCE: T.D. ATF-263, 52 FR 46595, Dec. 9, 1987, unless otherwise noted.

§ 26.306 Drawback of tax.

Any person who brings eligible articles into the United States from the Virgin Islands may claim drawback of the distilled spirits excise taxes paid on such articles as provided in this subpart.

§ 26.307 Special tax.

(a) *General.* Except as otherwise provided in paragraph (b) of this section, any person filing claim for drawback of tax on eligible articles brought into the United States from the Virgin Islands shall pay special tax as required by 26 U.S.C. 5131. For purposes of special tax, subparts C and D of part 17 of this chapter shall apply as if the use and tax determination occurred in the United States at the time the article was brought into the United States, and each business location from which entry of eligible articles is caused or effected shall be treated as a place of manufacture. If special tax is paid for any such business location under part 17 of this chapter, as a place where nonbeverage products are manufactured for purposes of drawback, then no additional special tax need be paid for that location under this section.

(b) *Suspension of tax.* During the period from July 1, 2005, through June 30, 2008, the rate of the tax described in paragraph (a) of this section is zero. However, any person described in paragraph (a) of this section must register by filing the special tax return on Form 5630.5, in accordance with part 17 of this chapter, during the suspension period even though the amount of tax due is zero.

[T.D. ATF-263, 52 FR 46595, Dec. 9, 1987, as amended by T.D. ATF-271, 53 FR 17559, May 17, 1988; T.D. ATF-379, 61 FR 31427, June 20, 1996; T.D. TTB-36, 70 FR 62247, Oct. 31, 2005]

§ 26.308 Bonds.

(a) *General.* Persons bringing eligible articles into the United States from the Virgin Islands and intending to file

monthly claims for drawback under the provisions of this subpart shall obtain a bond on Form 5154.3. When the limit of liability under a bond given in less than the maximum amount has been reached, further drawback on monthly claims may be suspended until a strengthening or superseding bond in a sufficient amount has been furnished. For provisions relating to bonding requirements, subpart E of part 17 of this chapter is incorporated in this part.

(b) *Approval required.* No person bringing eligible articles into the United States from the Virgin Islands may file monthly claims for drawback under the provisions of this subpart until a bond on TTB Form 5154.3 has been approved.

[T.D. ATF-379, 61 FR 31427, June 20, 1996, as amended by T.D. ATF-451, 66 FR 21670, May 1, 2001]

§ 26.309 Claims for drawback.

(a) *General.* Persons bringing eligible articles into the United States from the Virgin Islands must file claim for drawback on TTB Form 2635 (5620.8). Upon finding that the claimant has satisfied the requirements of this subpart, the appropriate TTB officer must allow the drawback of taxes at a rate of \$1 less than the lesser of \$10.50 a proof gallon or the rate specified in 26 U.S.C. 5001(a).

(b) *Information on claims.* The claim must set forth the following:

(1) That the special tax has been paid;

(2) That the eligible articles brought into the United States on which drawback is claimed are fully taxpaid or tax-determined;

(3) That the eligible articles on which drawback is claimed are nonbeverage products; and

(4) That the eligible articles were manufactured in the Virgin Islands in compliance with approved formulas in accordance with § 26.221.

(c) *Supporting data.* Each claim shall be accompanied by supporting data as specified in this paragraph. TTB Form 5154.2, Supporting Data for Nonbeverage Drawback Claims, may be used, or the claimant may use any suitable format that provides the following information:

(1) The control number of the Special Tax Stamp and the tax year for which issued;

(2) A description of each eligible article as follows:

(i) Name and type of each product;

(ii) Name and address of the manufacturer of each product;

(iii) Formula number under which each product was manufactured;

(iv) Alcohol content of each product;

(v) Quantity of each product;

(vi) Proof gallons of distilled spirits contained in each product;

(vii) Date of entry of the eligible product into the United States; and

(viii) Evidence of taxpayment of distilled spirits in accordance with § 26.266.

(d) *Date of filing claim.* Quarterly claims for drawback shall be filed within the 6 months next succeeding the quarter in which the eligible products covered by the claim were brought into the United States. Monthly claims for drawback may be filed at any time after the end of the month in which the eligible products covered by the claim were brought into the United States, but must be filed not later than the close of the sixth month succeeding the quarter in which the eligible products were brought into the United States.

(Approved by the Office of Management and Budget under control number 1512-0494)

[T.D. ATF-263, 52 FR 46595, Dec. 9, 1987, as amended by T.D. ATF-271, 53 FR 17559, May 17, 1988; T.D. ATF-379, 61 FR 31427, June 20, 1996; T.D. ATF-451, 66 FR 21670, May 1, 2001. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001]

§ 26.310 Records.

(a) *General.* Every person intending to file claim for drawback on eligible articles brought into the United States from the Virgin Islands shall keep permanent records of the data elements required by this section. Such records shall be maintained at the business premises for which the claim is filed and shall be available for inspection by any appropriate TTB officer during business hours.

(b) *Details of records.* Each person intending to claim drawback on eligible articles brought into the United States shall maintain permanent records showing the following data: