

§ 28.115

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

for remission of the tax thereon, shall be applicable.

(72 Stat. 1323, as amended, 84 Stat. 1965; 26 U.S.C. 5008, 5066)

[T.D. 7112, 36 FR 8581, May 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975]

RETURN OF SPIRITS TO BONDED PREMISES

§ 28.115 General.

Spirits which have been lawfully withdrawn without payment of tax under the provisions of this subpart for exportation, or for deposit in a foreign-trade zone, a manufacturing bonded warehouse, or a customs bonded warehouse, or for use on vessels and aircraft may, subject to the requirements of § 28.116, be returned:

(a) To the bonded premises of a distilled spirits plant for redistillation; or

(b) To the bonded premises from which withdrawn, pending subsequent removal for lawful purposes. However, such spirits may only be returned before they are exported, deposited in a foreign-trade zone, a manufacturing bonded warehouse, or a customs bonded warehouse, or laden as supplies upon or used on vessels or aircraft, as the case may be.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1365 as amended (26 U.S.C. 5214, 5223); Sec. 3, Pub. L. 91-659, 84 Stat. 1365, as amended (26 U.S.C. 5066))

[T.D. ATF-198, 50 FR 8560, Mar. 1, 1985, as amended by T.D. TTB-8, 69 FR 3832, Jan. 27, 2004]

§ 28.116 Notice of return of spirits withdrawn without payment of tax.

If a proprietor of a distilled spirits plant desires to return spirits to his plant as provided in § 28.115, he shall file a notice with the appropriate TTB officer. A copy of the notice shall be prepared for submission to the customs official, as required by § 28.117. The notice shall be executed under the penalties of perjury and shall show:

(a) Name, address, and plant number of the distilled spirits plant to which the spirits are to be returned.

(b) Name, address, and plant number of the distilled spirits plant which packaged or bottled the spirits.

(c) Name, address, and plant number of the distilled spirits plant from which the spirits were withdrawn.

(d) Name and address of the principal on the bond under which the spirits were withdrawn.

(e) Serial number of the TTB Form 5100.11 and the date withdrawn.

(f) Present location of spirits to be returned.

(g) Kind of spirits to be returned.

(h) Number, kind, and serial numbers of the containers to be returned. In case of bottled spirits, the number and size of the bottles in each case.

(i) Total quantity in proof gallons of spirits to be returned.

(j) Reason for return of spirits.

(k) Disposition to be made of returned spirits, i.e., redistillation or return to bonded storage.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1365, as amended (26 U.S.C. 5214, 5223))

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-62, 44 FR 71723, Dec. 11, 1979; T.D. TTB-8, 69 FR 3832, Jan. 27, 2004]

§ 28.117 Responsibility for return of spirits.

The principal on the bond under which the spirits were withdrawn without payment of tax shall be responsible for arranging the return of the spirits to the distilled spirits plant receiving them. The principal or his agent shall submit a copy of the notice required by § 28.116 to the appropriate customs official. If the spirits are returned before the TTB Form 5100.11 has been filed with the customs official, the principal shall submit the form with the notice. The customs officer shall, if the spirits are eligible for return under § 28.115, accept the notice as authority for the return of the spirits to the distilled spirits plant identified in the notice. The customs officer shall retain the notice and shall mark each copy of TTB Form 5100.11 "Canceled", note the date thereon, return both copies to the principal, and, if the spirits are in customs custody, release them for return. The principal shall retain one copy of the canceled TTB Form 5100.11 and file one

copy with the appropriate TTB officer identified on the form.

(Sec. 201, Pub. L. 85-859, 72 Stat 1362, as amended, 1365, as amended (26 U.S.C. 5214, 5223))

[T.D. ATF-62, 44 FR 71723, Dec. 11, 1979, as amended by T.D. TTB-8, 69 FR 3833, Jan. 27, 2004]

§ 28.118 Receipt of spirits.

The receipt, gauge, and disposition of the distilled spirits at the distilled spirits plant shall be in accordance with the applicable provisions of subpart U of part 19 of this chapter.

(Sec. 201, Pub. L. 85-859, 72 Stat 1362, as amended, 1365, as amended (26 U.S.C. 5214, 5223))

[T.D. ATF-62, 44 FR 71723, Dec. 11, 1979]

Subpart F—Withdrawal of Wine Without Payment of Tax for Exportation, Use on Vessels and Aircraft, Transfer to a Foreign-Trade Zone or to a Customs Bonded Warehouse, or Transportation to a Manufacturing Bonded Warehouse

§ 28.121 General.

Wine may, subject to this part, be withdrawn from a bonded wine cellar, without payment of tax, for:

- (a) Exportation;
- (b) Use on the vessels and aircraft described in § 28.21;
- (c) Transfer to and deposit in a foreign-trade zone for exportation or for storage pending exportation;
- (d) Transfer to and deposit in a customs bonded warehouse as provided in § 28.27; or
- (e) Transportation to and deposit in a manufacturing bonded warehouse.

All such withdrawals shall be made under the applicable bond prescribed in subpart D.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1380; 19 U.S.C. 1309, 81c, 26 U.S.C. 5362, 7805; (sec. 201, Pub. L. 85-859, 72 Stat. 1381, 1382 (26 U.S.C. 5370, 5371)))

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-62, 44 FR 71723, Dec. 11, 1979; T.D. ATF-88, 46 FR 39816, Aug. 5, 1981; 47 FR 20303, May 12, 1982; T.D. TTB-8, 69 FR 3831, Jan. 27, 2004]

§ 28.122 Application or notice, YYN Form 5100.11.

(a) *Export, use on vessels and aircraft, transfer to a customs bonded warehouse, and transfer to a foreign-trade zone.* Where the exporter is not the proprietor of the bonded wine cellar from which the wine is to be withdrawn, the exporter must make an application on ATF Form 5100.11 for approval of the withdrawal. Where the exporter is the proprietor of the bonded wine cellar from which the wine is to be withdrawn, the exporter must, at the time of withdrawal of the wine, prepare a notice of the withdrawal and shipment on TTB Form 5100.11. TTB approval is not required if the exporter is the proprietor of the bonded wine cellar from which the wine is to be withdrawn.

(b) *Manufacturing bonded warehouse.* The proprietor of the manufacturing bonded warehouse must make an application on TTB Form 5100.11 to withdraw wine without payment of tax for transportation to and deposit in such warehouse before withdrawal of the wine.

(c) *Action by appropriate TTB officer.* Where, under the provisions of paragraphs (a) and (b) of this section, an TTB Form 5100.11 is submitted to the appropriate TTB officer for approval, the appropriate TTB officer shall, if satisfied that the application is in order and that the applicant has on file a good and sufficient bond, approve the application and forward it to the proprietor of the premises from which the wines are to be withdrawn.

(d) *Restriction on shipment.* Where, under the provisions of paragraphs (a) and (b) of this section, prior approval of TTB Form 5100.11 by the appropriate TTB officer is required, the proprietor of the bonded wine cellar may not ship the wine until the approved TTB Forms 5100.11 have been received by him. In such cases, the proprietor of the bonded wine cellar shall, on removal of the wines, execute his certificate of removal on TTB Form 5100.11.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1380, as amended (26 U.S.C. 5362))

[T.D. ATF-198, 50 FR 8560, Mar. 1, 1985]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 28.122, see the List of CFR