

**§ 28.321 Tax assessed on loss not accounted for.**

The appropriate TTB officer shall make demand on the brewer for an amount equal to the tax which would be due on removal for consumption or sale, including penalties and interest, on; (a) The quantity of beer not satisfactorily accounted for, or (b) the quantity of beer used to produce the quantity of beer concentrate which is not satisfactorily accounted for.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1333, as amended, 1334, as amended (26 U.S.C. 5051, 5053))

[T.D. ATF-224, 51 FR 7700, Mar. 5, 1986, as amended by T.D. TTB-8, 69 FR 3835, Jan. 27, 2004]

**Subpart P—Action on Claims****§ 28.331 Claims supported by bond, Form 2738 (5110.68).**

On receipt of a claim for drawback of tax on distilled spirits or wines on which the tax has been determined, and of the evidence of exportation required by § 28.40, or of lading for use on vessels or aircraft required by § 28.41, or of deposit in a foreign-trade zone or of deposit of distilled spirits in a customs bonded warehouse, as required by § 28.42, as the case may be, the appropriate TTB officer shall, if a good and sufficient bond has been filed as provided in § 28.65, and the notice of removal has been properly completed, allow the claim in accordance with the rate of drawback established in respect of the particular spirits or wines on which claim is based and charge the amount allowed against the bond. On receipt of the original of the claim properly executed by the appropriate customs official or armed services officer, as required by this part, and, in the case of claims on Form 1582-A (5120.24), the certificate of tax determination, Form 2605 (5120.20), the appropriate TTB officer shall give appropriate credit to the bond.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1336, as amended, 84 Stat. 1965; 19 U.S.C. 1309, 81c, 26 U.S.C. 5062, 5066)

[T.D. 7112, 36 FR 8583, May 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975 and amended by T.D. TTB-8, 69 FR 3835, Jan. 27, 2004]

**§ 28.332 Claim against bond.**

When any claim supported by a bond has been allowed and changed against the bond under the provisions of § 28.331, and the original of the claim properly executed by the appropriate customs official or armed services officer as required by this part is not received by the appropriate TTB officer within three months of the date the claim was allowed, or where the distilled spirits or wines are not otherwise accounted for in accordance with this part, the appropriate TTB officer shall advise the claimant of the facts, and notify him that unless the original of the claim, properly executed as required by this part, is received by the appropriate TTB officer within 30 days, a written demand will be made upon the principal and the surety for repayment to the United States of the full amount of the drawback, plus interest at the rate prescribed by law from the time the drawback was paid. However, the appropriate TTB officer may, if in his opinion the circumstances warrant it, grant the claimant any additional extension of time beyond 30 days as may be necessary to accomplish the required filing.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336 as amended, (26 U.S.C. 5062))

[T.D. ATF-70, 45 FR 33981, May 21, 1980, as amended by T.D. TTB-8, 69 FR 3835, Jan. 27, 2004]

**§ 28.333 Where no bond is filed.**

Where a claim for drawback of tax on distilled spirits or wines on TTB Form 5110.30 or 1582-A (5120.24), is not supported by a bond on Form 2738 (5110.68), and in all cases where claim for drawback of tax on beer is made on Form 1582-B (5130.6), the appropriate TTB officer shall, on receipt by him of the original of the claim properly executed by the appropriate customs official or armed services officer, as required by this part, examine the claim to determine that it has been properly completed. He shall then, on receipt of the evidence of exportation required by § 28.40, or of lading for use on vessels or aircraft required by § 28.41, or of deposit in a foreign-trade zone or a customs bonded warehouse as required by § 28.42, as the case may be, and, in the case of