

§ 28.66 Strengthening bonds.

In all cases where the penal sum of any bond becomes insufficient, the principal shall either give a strengthening bond with the same surety to attain a sufficient penal sum, or give a new bond to cover the entire liability. Strengthening bonds will not be approved where any notation is made thereon which is intended, or which may be construed, as a release of any former bond, or as limiting the amount of any bond to less than its full penal sum. Strengthening bonds shall show the current date of execution and the effective date.

(72 Stat. 1352, 1394; 26 U.S.C. 5175, 5551)

§ 28.67 New or superseding bonds.

New bonds shall be required in case of insolvency or removal of any surety, and may, at the discretion of the appropriate TTB officer, be required in any other contingency affecting the validity or impairing the efficiency of such bond. Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity, continuing or liquidating the business of the principal, shall execute and file a new bond or obtain the consent of the surety or sureties on the existing bond or bonds. Where, under the provisions of § 28.72, the surety on any bond given under this subpart has filed an application to be relieved of liability under said bond and the principal desires or intends to continue the business or operations to which such bond relates, he shall file a valid superseding bond to be effective on or before the date specified in the surety's notice. If the principal does not file a new or superseding bond when required, he shall discontinue the operations intended to be covered by such bond forthwith. New or superseding bonds shall show the current date of execution and the effective date.

(72 Stat. 1336, 1362; 26 U.S.C. 5062, 5214)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-62, 44 FR 71722, Dec. 11, 1979; T.D. TTB-8, 69 FR 3832, Jan. 27, 2004]

TERMINATION OF BONDS

§ 28.70 Termination of bonds, Forms 2734 (5120.25) and 2736 (5100.12).

Bonds, Forms 2734 (5120.25) and 2736 (5100.12), covering a specific lot of distilled spirits or wines withdrawn without payment of tax under this part, will be canceled by the appropriate TTB officer on receipt by him of TTB Form 5100.11 properly executed by the appropriate customs official or armed services officer, as required by this part, evidencing that the distilled spirits or wines have been duly exported, laden for use on vessels or aircraft, deposited in a foreign-trade zone, or deposited in a manufacturing bonded warehouse, as the case may be, or of evidence satisfactory to him that the distilled spirits or wines have been otherwise lawfully disposed of or accounted for: *Provided*, That all liability under the bond to be canceled has been terminated.

(72 Stat. 1352; 26 U.S.C. 5175)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-62, 44 FR 71722, Dec. 11, 1979; T.D. TTB-8, 69 FR 3832, Jan. 27, 2004]

§ 28.71 Termination of bonds, Forms 2735 (5100.30), 2737 (5110.67), and 2738 (5110.68).

Continuing bonds, Forms 2735 (5100.30) and 2737 (5110.67), covering distilled spirits and/or wines withdrawn from time to time without payment of tax under this part and Form 2738 (5110.68) covering allowance of claims for drawback on distilled spirits and/or wines removed as authorized in §§ 28.171 and 28.211, may be terminated as to liability for future withdrawals or claims (a) pursuant to application of surety as provided in § 28.72, (b) on approval of a superseding bond, or (c) on written notification to the appropriate TTB officer by the principal of his discontinuance of withdrawals or claims, as the case may be, under the bond. When no further withdrawals are to be made under a bond on Form 2735 (5100.30) or 2737 (5110.67), or no further claims for drawback are to be filed under bond Form 2738 (5110.68), the bond shall be canceled by the appropriate TTB officer in the manner and

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subject to the conditions provided in § 28.70.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended, 1352, as amended, 1353, as amended (26 U.S.C. 5062, 5175, 5176))

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-62, 44 FR 71722, Dec. 11, 1979; T.D. ATF-198, 50 FR 8559, Mar. 1, 1985; T.D. TTB-8, 69 FR 3832, Jan. 27, 2004]

§ 28.72 Application of surety for relief from bond.

A surety on any bond given on Forms 2735 (5100.30), 2737 (5110.67), or 2738 (5110.68), may at any time in writing notify the principal and the appropriate TTB officer that he desires, after a date named, to be relieved of liability under said bond. Such date shall be not less than 90 days after the date the notice is received by the appropriate TTB officer. The surety shall also file with the appropriate TTB officer an acknowledgment or other proof of service on the principal. If such notice is not thereafter in writing withdrawn, the rights of the principal as supported by said bond shall be terminated on the date named in the notice, and the surety shall be relieved from liability to the extent set forth in § 28.73(b).

(68A Stat. 749, as amended (26 U.S.C. 6065); Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended, 1352, as amended (26 U.S.C. 5062, 5175))

[T.D. 6895, 31 FR 11976, Sept. 13, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-62, 44 FR 71722, Dec. 11, 1979; T.D. TTB-8, 69 FR 3832, Jan. 27, 2004]

§ 28.73 Relief of surety from bond.

(a) *Bonds, Forms 2734 (5120.25) and 2736 (5100.12)*. The surety on a bond given on Form 2734 (5120.25) or Form 2736 (5100.12) shall be relieved from his liability under the bond when the bond has been canceled as provided for in § 28.70.

(b) *Bonds, Forms 2735 (5100.30), 2737 (5110.67), and 2738 (5110.68)*. Where the surety on a bond given on Form 2735 (5100.30), Form 2737 (5110.67), or on Form 2738 (5110.68) has filed application for relief from liability, as provided in § 28.72, the surety shall be relieved from liability for withdrawals or claims, as the case may be, made wholly subsequent to the date specified in the no-

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tice, or on the effective date of a superseding bond, if one is given. Notwithstanding such relief, the liability of the surety shall continue until the spirits and/or wines withdrawn without payment of tax or included in a claim for drawback of tax allowed under the bond have been properly accounted for.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended, 1352, as amended, 1353, as amended (26 U.S.C. 5062, 5175, 5176))

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-62, 44 FR 71722, Dec. 11, 1979; T.D. TTB-8, 69 FR 3832, Jan. 27, 2004]

§ 28.74 Release of pledged securities.

Securities of the United States, pledged and deposited as provided in § 28.53, shall be released only in accordance with the provisions of 31 CFR part 225. Such securities will not be released by the appropriate TTB officer until liability under the bond for which they were pledged has been terminated. When the appropriate TTB officer is satisfied that they may be released, he shall fix the date or dates on which a part or all of such securities may be released. At any time prior to the release of such securities, the appropriate TTB officer may extend the date of release for such additional length of time as he deems necessary.

(61 Stat. 650; 6 U.S.C. 15)

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975 and amended by T.D. TTB-8, 69 FR 3832, Jan. 27, 2004]

CHARGES AND CREDITS

§ 28.80 Charges and credits on bonds.

The withdrawal of liquors without payment of tax or of specially denatured spirits free of tax, under the provisions of this part shall constitute a charge against the bond under which the withdrawal is made of (a) the tax on the liquors withdrawn or (b) of an amount equal to the tax on specially denatured spirits withdrawn that will be due in the event of failure to account for the specially denatured spirits as provided in this part. The tax on liquors so withdrawn, or an amount equal to the tax on specially denatured spirits so withdrawn that would be due