

instruction on the return forms, which are furnished to industry members by TTB. Special tax stamps are issued to denote the payment of special (occupational) taxes by liquor dealers, brewers, manufacturers of nonbeverage products, and industrial users of tax-free distilled spirits; by dealers, users, and recoverers of specially denatured spirits; and by proprietors of distilled spirits plants, bonded wine cellars, bonded wine warehouses, and taxpaid wine bottling houses. Detailed information respecting the payment of tax on liquors and the payment of occupational taxes, including the forms to be used and procedures to be followed, is contained in the respective regulations described in § 70.411(c).

(b) *Assessment.* If additional or delinquent tax liability is disclosed by an investigation, or by an examination of records, of a qualified plant or permittee, a notice (except where delay may jeopardize collection of the tax, or where the amount involved is nominal or the result of an evident mathematical error) is sent to the taxpayer advising of the basis and amount of the liability and affording the taxpayer an opportunity to submit a protest, with supporting facts, or to request a conference.

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### § 70.413 Claims.

(a) *Claims for remission.* When distilled spirits (including distilling material and denatured spirits), wine, or beer on which the tax has not been paid or determined is lost, and the person liable for payment of the tax thereon desires to be relieved from such liability, such person may file claim on Form 5620.8 for remission of tax on the quantity that was lost. The appropriate TTB officer may, in any event, require such a claim to be filed, and will require it if circumstances indicate that the loss was caused by theft or, in the case of distilled spirits (including distilling material), unauthorized voluntary de-

struction. On receipt of a claim the appropriate TTB officer makes a factual determination, and notifies the claimant of allowance or rejection of the claim. If the claim is rejected, and circumstances so warrant, the appropriate TTB officer will take appropriate steps to collect the tax.

(b) *Claims for abatement.* When the tax on distilled spirits, wines, or beer is assessed and the taxpayer thinks that the tax is not due under the law, such taxpayer may file a claim for abatement of the tax on TTB Form 5620.8 with the officer who made demand for the tax. Such officer may call upon the taxpayer to file a bond in double the amount of the tax in order to insure collection of the tax if the claim is rejected. When the claim is acted upon, the taxpayer is notified of the allowance or rejection of the claim. If the claim is rejected, such officer, will initiate action to collect the tax.

(c) *Claims for refund*—(1) *Taxes illegally, erroneously, or excessively collected.* A claim for refund of taxes illegally, erroneously, or excessively collected may be filed by the taxpayer with the officer who collected the tax. Such claim must be filed within three years (two years under certain circumstances) after the date of payment of the tax. If the claim is rejected, the taxpayer is notified of the rejection by registered or certified mail, and the taxpayer may then bring suit in the U.S. District Court or the Court of Claims for recovery of the tax. Such suits must be filed generally within two years from the date of mailing of the rejection notice. If the claim is allowed, a check for the amount of the refund and allowable interest is forwarded to the taxpayer; however, if there are other unpaid taxes outstanding against the taxpayer, the overpayment may be applied to the outstanding taxes and the balance, if any, refunded.

(2) *Taxes on liquors lost, destroyed, returned to bond, or taken as samples by the United States.* A taxpayer may, subject to the conditions in the appropriate regulations, file claim on Form 5620.8 for refund of tax paid on:

(i) Spirits returned to bonded premises, lost by accident or disaster, or

taken as samples by the United States, or

(ii) Wine returned to bond as unmerchantable, or lost by disaster, or

(iii) Beer returned to a brewery or voluntarily destroyed, or lost, whether by theft or otherwise, or destroyed or otherwise rendered unmerchantable by fire, casualty, or act of God. If the claim is allowed, a check for the amount of the refund is forwarded to the claimant; except, that where there are any unpaid taxes outstanding against the claimant, the refund may be applied to the outstanding taxes and a check for the balance, if any, forwarded to the claimant. If the claim is rejected, a copy of the claim giving the reasons for rejection is forwarded to the claimant.

(d) *Claims for allowance, credit, or relief.* A qualified permittee, manufacturer, or proprietor may, subject to the conditions in the appropriate regulations, file claim on Form 5620.8 for allowance of loss, credit of tax, or relief from tax liability, as applicable, on

(1) Spirits returned to bonded premises, lost or destroyed on bonded premises, or in transit thereto, or lost by accident or disaster;

(2) Wine lost or destroyed on bonded premises or in transit thereto and unmerchantable domestic wine returned to bond;

(3) Beer returned to a brewery or voluntarily destroyed, or lost, whether by theft or otherwise, or destroyed or otherwise rendered unmerchantable by fire, casualty, or act of God;

(4) Denatured spirits lost or destroyed in bond, or lost on the premises of a qualified dealer or user or in transit to such premises; and

(5) Tax-free spirits lost on the premises of a qualified user or in transit to such premises.

(e) *Claims for payment-disaster losses.* When distilled spirits, wines, rectified products, or beer held or intended for sale is lost, rendered unmarketable, or condemned by a duly authorized official by reason of a "major disaster" as determined by the President of the United States, the person holding such product for sale at that time may, subject to the conditions in the appropriate regulations, file claim on Form 5620.8 of the region in which the prod-

uct was lost, rendered unmarketable, or condemned, for payment of an amount equal to the internal revenue taxes paid or determined and any customs duties paid thereon. Claims must be filed within 6 months from the date on which the President makes the determination that the disaster has occurred. The determination date is construed to mean the date the Director, Office of Emergency Preparedness, identifies the specific disaster area.

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#### § 70.414 Preparation and filing of claims.

(a) *Distilled spirits at distilled spirits plants.* Procedural instructions in respect of claims for remission, abatement, credit, or refund of tax on spirits (including denatured spirits) lost or destroyed on or lost in transit to, or on spirits returned to, the premises of a distilled spirits plant are contained in Part 19 of Title 27 CFR. It is not necessary to file a claim for credit of tax on taxpaid samples taken by appropriate TTB officers from distilled spirits plants, as the appropriate TTB officer will allow credit, without claim, for tax on such samples.

(b) *Specially denatured spirits.* Procedural instructions in respect of claims for allowance of loss on specially denatured spirits lost on the premises of a bonded dealer or user, or while in transit to such premises, are contained in part 20 of title 27 CFR.

(c) *Tax-free alcohol.* Procedural instructions in respect of claims for allowance of loss on tax-free alcohol lost on the premises of a qualified user, or while in transit to such premises, are contained in part 22 of title 27 CFR.

(d) *Wine spirits and wine at bonded wine cellar.* Procedural instructions in respect of claims for:

(1) Remission of tax on wine spirits lost on the premises of a bonded wine cellar or in transit thereto,

(2) Allowance of losses of wine in bond, and