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Codification Guide

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

Monthly, quarterly, and annual cumulative guides, published separately from the daily issues, include the section numbers as well as the part numbers affected.

Announcement

CFR SUPPLEMENTS

(As of January 1, 1960)

The following Supplement is now available:

Title 14, Parts 40–399 ____ $0.75

Previously announced: Title 3 ($0.60); Titles 4–5 ($1.00); Title 7, Parts 1–50 ($0.45); Parts 51–52 ($0.45); Parts 53–209 ($0.40); Parts 210–399, Revised ($4.00); Parts 900–959 ($1.50); Part 960 to End ($2.50); Title 8 ($0.40); Title 9 ($0.35); Titles 10–13 ($0.50); Title 14, Parts 1–39 ($0.65); Title 15 ($1.25); Title 16, Revised ($6.50); Title 17 ($0.75); Title 18 ($0.55); Title 19 ($1.00); Title 20 ($1.25); Title 21 ($1.50); Titles 22–23 ($0.45); Title 24 ($0.45); Title 25 ($0.45); Title 26 (1939), Parts 1–79 ($0.40); Parts 80–169 ($0.35); Parts 170–182 ($0.35); Parts 300 to End ($0.40); Title 26, Part 1 (§§ 1.01–1.499) ($1.75); Parts 1 (§ 1.500 to End)–19 ($2.25); Parts 20–169 ($1.75); Parts 170–221 ($2.25); Part 300 to End ($1.25); Titles 28–29 ($1.75); Titles 30–31 ($0.50); Title 32, Parts 1–399 ($2.00); Parts 400–699 ($2.00); Parts 700–799 ($1.00); Parts 800–999, Revised ($3.75); Parts 1000–1099, Revised ($6.50); Part 1100 to End ($0.60); Title 33 ($1.75); Title 35, Revised ($3.50); Title 36, Revised ($3.00); Title 37, Revised ($3.50); Title 38 ($1.00); Title 39 ($1.50); Title 42, Revised ($4.00); Title 43 ($1.00); Title 46, Parts 1–145 ($1.00); Parts 146–149, Revised ($6.00); Part 150 to End ($0.65); Title 47, Parts 1–29 ($1.00); Part 30 to End ($0.30); Title 49, Parts 1–70 ($1.75); Parts 71–90 ($1.00); Parts 91–164 ($0.45); Part 165 to End ($1.00); Title 50 ($0.70).

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Rules and Regulations

Title 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER C—EMPLOYMENT TAXES

[T.D. 6472]

PART 31—EMPLOYMENT TAXES; APPLICABLE ON AND AFTER JANUARY 1, 1955

On March 23, 1960, notice of proposed rule making with respect to certain administrative regulations of special application to the employment taxes imposed by subtitle C of the Internal Revenue Code of 1954, and with respect to amendments of existing employment tax regulations under sections 6001, 6011(a), and 6051 of such Code, was published in the FEDERAL REGISTER (25 F.R. 57). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the administrative regulations and the amendments as so published are hereby adopted, subject to the change set forth below:

Example (2) of paragraph (a)(1)(ii) of § 31.6413(c)-1 is revised by substituting "1959" for "1955" in the fifth sentence of such example.

[SEAL] CHARLES I. FOX,
Acting Commissioner of Internal Revenue.

Approved: June 17, 1960.

FRED C. SCRIBNER, Jr.,
Acting Secretary of the Treasury.

PARAGRAPH 1. The employment tax regulations adopted under selected provisions of subtitle F of the Internal Revenue Code of 1954 read as follows:

Sec.
31.6011(b) Statutory provisions; identification of taxpayer.
31.6011(b)-1 Employers' identification numbers.
31.6011(b)-2 Employees' account numbers.
31.6051 Statutory provisions; receipts for employees.
31.6051-1 Statements for employees.
31.6061 Statutory provisions; signing of returns and other documents.
31.6061-1 Signing of returns.
31.6065(a) Statutory provisions; verification of returns.
31.6065(a)-1 Verification of returns and other documents.
31.6091 Statutory provisions; place for filing returns.
31.6091-1 Place for filing returns.
31.6101 Statutory provisions; period covered by returns or other documents.
31.6101-1 Period covered by returns.
31.6161(a)(1) Statutory provisions; extension of time for paying tax.
31.6161(a)(1)-1 Extensions of time for paying tax.
31.6205 Statutory provisions; special rules applicable to certain employment taxes.

Sec.
31.6205-1 Adjustments of underpayments.
31.6302(b) Statutory provisions; mode or time of collection; discretionary method.
31.6302(b)-1 Method of collection.
31.6402(a) Statutory provisions; authority to make credits or refunds.
31.6402(a)-1 Credits or refunds.
31.6402(a)-2 Credit or refund of tax under Federal Insurance Contributions Act or Railroad Retirement Tax Act.
31.6402(a)-3 Refund of Federal unemployment tax.
31.6404(a) Statutory provisions; abatements.
31.6404(a)-1 Abatements.
31.6413(a) Statutory provisions; special rules applicable to certain employment taxes; adjustment of tax.
31.6413(a)-1 Repayment by employer of tax erroneously collected from employee.
31.6413(a)-2 Adjustment of overpayments.
31.6413(b) Statutory provisions; special rules applicable to certain employment taxes; overpayments of certain employment taxes.
31.6413(b)-1 Overpayments of certain employment taxes.
31.6413(c) Statutory provisions; special rules applicable to certain employment taxes; special refunds.
31.6413(c)-1 Special refunds.
31.6413(d) Statutory provisions; special rules applicable to certain employment taxes; refund or credit of Federal unemployment tax.
31.6414 Statutory provisions; income tax withheld.
31.6414-1 Credit or refund of income tax withheld from wages.
31.6674 Statutory provisions; fraudulent statement or failure to furnish statement to employee.
31.6674-1 Penalties for fraudulent receipt or failure to furnish receipt.
31.7805 Statutory provisions; rules and regulations.
31.7805-1 Promulgation of regulations.

AUTHORITY: §§ 31.6011(b) to 31.7805-1 issued under sec. 7805, I.R.C. 1954; 68A Stat. 917; 26 U.S.C. 7805.

§ 31.6011(b) Statutory provisions; identification of taxpayer.

SEC. 6011. *General requirement of return, statement, or list.* * * *

(b) *Identification of taxpayer.* The Secretary or his delegate is authorized to require such information with respect to persons subject to the taxes imposed by chapter 21 or chapter 24 as is necessary or helpful in securing proper identification of such persons.

§ 31.6011(b)-1 Employers' identification numbers.

(a) *Requirement of application*—(1) *In general.* Except as provided in subparagraph (2) of this paragraph, every employer who on or after January 1, 1955, has in his employ one or more individuals in employment for wages subject to the taxes imposed by the Federal Insurance Contributions Act, but who prior to such date has neither secured an identification number nor made application therefor, shall make an application on Form SS-4 for an identification number. Each application, together with any supplementary statement, shall be prepared in accordance with the form, instructions, and regulations applicable thereto, and shall set forth fully and clearly the data therein called for. Copies of Form SS-4 may be obtained from any district director, or any district office of the Social Security Administration. The application shall be filed with the district director with whom the employer will file returns of the taxes imposed by the Federal Insurance Contributions Act, or with the nearest district office of the Social Security Administration. Each application shall be signed by (i) the individual, if the employer is an individual; (ii) the president, vice president, or other principal officer, if the employer is a corporation; (iii) a responsible and duly authorized member or officer having knowledge of its affairs, if the employer is a partnership or other unincorporated organization; or (iv) the fiduciary, if the employer is a trust or estate. An identification number will be assigned to the employer in due course upon the basis of information reported on the application required under this section.

(2) *Exception.* An employer, other than an employer who is required to file returns of the taxes imposed by the Federal Insurance Contributions Act with the office of the United States Internal Revenue Service in Puerto Rico, who has in his employ only employees who are engaged exclusively in the performance of domestic service in his private home not on a farm operated for profit (see § 31.3121(a)(7)-1) is not required to apply for an identification number.

(3) *Time for filing Form SS-4.* The application for an identification number shall be filed on or before the seventh day after the date on which the first payment of wages, as defined in the Federal Insurance Contributions Act, is made by the employer. For provisions relating to the time when wages are paid, see § 31.3121(a)-2 of Subpart B of the regulations in this part.

(b) *Employers who are assigned identification numbers without application.* An identification number will be assigned by a district director in the case of (1) an employer who is required to make returns of the taxes imposed by the Federal Insurance Contributions Act but who by reason of the provisions of paragraph (a)(2) of this section is not required to apply for an identification number, and (2) an employer who is required to make returns of income tax withheld from wages pursuant to section 3402 but who is not required to make returns of the taxes imposed by the Federal Insurance Contributions Act.

(c) *Crew leaders.* Any person who, as a crew leader within the meaning of section 3121(o), furnishes individuals to perform agricultural labor for another person shall, on or before the first date on which he furnishes such individuals to perform such labor for such other person, advise such other person of his name; permanent mailing address, or if none, present address; and identification number, if any.

(d) *Use of identification number.* The identification number assigned to an employer (other than a household employer referred to in paragraph (a)(2) of this section) shall be shown in the employer's records, returns, statements for employees, depositary receipts, and claims to the extent required by the applicable forms, regulations, and instructions.

§ 31.6011(b)-2 Employees' account numbers.

(a) *Requirement of application*—(1) *In general.* Every employee who on or after January 1, 1955, is in employment for wages subject to the taxes imposed by the Federal Insurance Contributions Act, but who prior to such date has neither secured an account number nor made application therefor, shall make an application on Form SS-5 for an account number. Each application shall be prepared in accordance with the form, instructions, and regulations applicable thereto, and shall set forth fully and clearly the data therein called for. Such employee shall file the application with any district office of the Social Security Administration or, if the employee is not working within the United States, with the district office of the Social Security Administration at Baltimore, Maryland. Copies of Form SS-5 may be obtained from any district office of the Social Security Administration or from any district director. An account number will be assigned to the employee by the Social Security Administration in due course upon the basis of information reported on the application required under this section. A card showing the name and account number of an employee to whom an account number has been assigned will be furnished to the employee by the Social Security Administration.

(2) *Time for filing Form SS-5.* The application shall be filed on or before the seventh day after the date on which the employee first performs employment for wages, unless the employee leaves the employ of his employer before such seventh day, in which case the application shall be filed on or before the date on which the employee leaves the employ of his employer.

(3) *Changes and corrections.* Any employee may have his account number changed at any time by applying to a district office of the Social Security Administration and showing good reasons for a change. With that exception, only one account number will be assigned to an employee. Any employee whose name is changed by marriage or otherwise, or who has stated incorrect information on Form SS-5, should report such change or correction to a district office of the Social Security Administration. Copies of the form for making such reports may be obtained from any district office of the Administration.

(b) *Duties of employee with respect to his account number*—(1) *Information to be furnished to employer.* An employee shall, on the day on which he enters the employ of any employer for wages, comply with the provisions of subdivision (i), (ii), (iii), or (iv) of this subparagraph, except that, if the employee's services for the employer consist solely of agricultural labor, domestic service in a private home of the employer not on a farm operated for profit, or service not in the course of the employer's trade or business, the employee shall comply with such provisions on the first day on which wages are paid to him by such employer, within the meaning of § 31.3121(a)-2 of Subpart B of the regulations in this part:

(i) *Employee who has account number card.* If the employee has been issued an account number card by the Social Security Administration and has the card available, the employee shall show it to the employer.

(ii) *Employee who has number but card not available.* If the employee does not have available the account number card issued to him by the Social Security Administration but knows what his account number is, and what his name is, exactly as shown on such card, the employee shall advise the employer of such number and name. Care must be exercised that the employer is correctly advised of such number and name.

(iii) *Employee who has receipt acknowledging application.* If the employee does not have an account number card but has available a receipt issued to him by an office of the Social Security Administration acknowledging that an application for an account number has been received, the employee shall show such receipt to the employer.

(iv) *Employee who is unable to furnish number or receipt.* If an employee is unable to comply with the requirement of subdivision (i), (ii), or (iii) of this subparagraph, the employee shall furnish to the employer a statement in writing, signed by the employee, setting forth the date of the statement, the employee's full name, present address, date and place of birth, father's full name, mother's full name before marriage, and the employee's sex, including a statement as to whether the employee has previously filed an application on Form SS-5 and, if so, the date and place of such filing. The information required by this subdivision shall be furnished on Form SS-5, if a copy of Form SS-5 is available. The furnishing of such a Form SS-5 or other statement by the employee to the employer does not relieve the employee of his obligation to make an application on Form SS-5 and file it with a district office of the Social Security Administration as required by paragraph (a) of this section. The foregoing provisions of this subdivision are not applicable to an employee engaged exclusively in the performance of domestic service in a private home of his employer not on a farm operated for profit, or in the performance of agricultural labor, if the services are performed for an employer other than an employer required to file returns of the taxes imposed by the Federal Insurance Contributions Act with the office of the United States Internal Revenue Service in Puerto Rico. However, such employee shall advise the employer of his full name and present address.

For provisions relating to the duties of an employer when furnished the information required by subdivision (i), (ii), (iii), or (iv) of this subparagraph, see paragraph (c) of this section.

(2) *Additional information to be furnished by employee to employer.* Every employee who, on the day on which he is required to comply with subdivision (i), (ii), (iii), or (iv) of subparagraph (1) of this paragraph, has an account number card but for any reason does not show such card to the employer on such day shall promptly thereafter show the card to the employer. An employee who does not have an account number card on such day shall, upon receipt of an account number card from the Social Security Administration, promptly show such card to the employer, if he is still in the employ of that employer. If the employee has left the employ of the employer when the employee receives an account number card from the Social Security Administration, he shall promptly advise the employer of his account number and name exactly as shown on such card. The account number originally assigned to an employee (or the number as changed in accordance with paragraph (a)(3) of this section) shall be used by the employee as required by this paragraph even though he enters the employ of other employers.

(c) *Duties of employer with respect to employees' account numbers*—(1) *Employee who shows account number.* Upon being shown the account number card issued to an employee by the Social Security Administration, the employer shall enter the account number and name, exactly as shown on the card, in the employer's records, returns, statements for employees, and claims to the extent required by the applicable forms, regulations, and instructions.

(2) *Employee who does not show account number card.* With respect to an employee who, on the day on which he is required to comply with subdivision (i), (ii), (iii), or (iv) of paragraph (b)(1) of this section, does not show the employer an account number card issued to the employee by the Social Security Administration, the employer shall request such employee to show him such card. If the card is not shown, the employer shall comply with the applicable provisions of subdivision (i), (ii), (iii), (iv), or (v) of this subparagraph:

(i) *Employee who has not applied for account number.* If the employee has not been assigned an account number and has not made application therefor with a district office of the Social Security Administration, the employer shall inform the employee of his duties under this section.

(ii) *Employee who has account number.* If the employee advises the employer of his number and name as shown on his account number card, as provided in paragraph (b)(1)(ii) of this section, the employer shall enter such number and name in his records.

(iii) *Employee who has receipt for application.* If the employee shows the employer, as provided in paragraph (b)(1)(iii) of this section, a receipt issued to him by an office of the Social Security Administration acknowledging that an application for an account number has been received from the employee, the employer shall enter in his records with respect to such employee the name and address of the employee exactly as shown on the receipt, the expiration date of the receipt, and the address of the issuing office. The receipt shall be retained by the employee.

(iv) *Employee who furnishes Form SS-5 or statement.* If the employee furnishes information to the employer as provided in paragraph (b)(1)(iv) of this section, the employer shall retain such information for use as provided in subparagraph (3)(ii) of this paragraph.

(v) *Household or agricultural employees.* If the employee advises the employer of his full name and present address in accordance with those provisions of paragraph (b)(1)(iv) of this section which are applicable in the case of employees engaged exclusively in the performance of domestic service in a private home of the employer not on a farm operated for profit, or agricultural labor, the employer shall enter such name and address in his records.

(3) *Account number unknown when return is filed.* In any case in which the employee's account number is for any reason unknown to the employer at the time the employer's return is filed for any return period with respect to which the employer is required to report the wages paid to such employee—

(i) *If employee has shown receipt for application.* If the employee has shown to the employer, as provided in paragraph (b)(1)(iii) of this section, a receipt issued to him by an office of the Social Security Administration acknowledging that an application for an account number has been received from the employee, the employer shall enter on the return, with the entry with respect to the employee, the name and address of the employee exactly as shown on the receipt, the expiration date of the receipt, and the address of the issuing office.

(ii) *If employee furnished Form SS-5 or statement.* If the employee has furnished information to the employer as provided in paragraph (b)(1)(iv) of this section, the employer shall prepare a copy of the Form SS-5 or statement furnished by the employee and attach the copy to the return.

(iii) *If employee did not furnish receipt, Form SS-5, or statement.* If neither subdivision (i) nor (ii) of this subparagraph is applicable, the employer shall, except as provided in subparagraph (4) of this paragraph, attach to the return a Form SS-5 or statement, signed by the employer, setting forth as fully and clearly as practicable the employee's full name, his present or last known address, date and place of birth, father's full name, mother's full name before marriage, the employee's sex, and a statement as to whether an application for an account number has previously been filed by the employee and, if so, the date and place of such filing. The employer shall also insert in such Form SS-5 or statement an explanation of why he has not secured from the employee the information referred to in paragraph (b)(1)(iv) of this section, and shall insert the word "Employer" as part of his signature.

(4) *Household or agricultural employees.* The provisions of subparagraph (3)(iii) of this paragraph are not applicable with respect to an employee engaged exclusively in the performance of domestic service in a private home of his employer not on a farm operated for profit, or in the performance of agricultural labor, if the services are performed for an employer other than an employer required to file returns of the taxes imposed by the Federal Insurance Contributions Act with the office of the United States Internal Revenue Service in Puerto Rico. If any such employee has not furnished to the employer the information required by paragraph (b)(1) (i), (ii), or (iii) of this section prior to the time the employer's return is filed for any return period with respect to which the employer is required to report wages paid to such employee, the employer shall enter the word "Unknown" in the account number column of the return and (i) file with the return a statement showing the employee's full name and present or last known address, or (ii) enter such address on the return form immediately below the name of the employee.

(5) *Where to obtain Form SS-5.* Employers may obtain copies of Form SS-5 from any district office of the Social Security Administration or from any district director.

(6) *Prospective employees.* While not mandatory, it is suggested that the employer advise any prospective employee who does not have an account number of the requirements of paragraphs (a) and (b) of this section.

§ 31.6051-1 Statements for employees.

(a) *Requirement if wages are subject to withholding of income tax*—(1) *General rule.* (i) Every employer, as defined in section 3401(d), required to deduct and withhold from an employee a tax under section 3402, or who would have been required to deduct and withhold a tax under section 3402 if the employee had claimed no more than one withholding exemption, shall furnish to each such employee, in respect of the remuneration paid by such employer to such employee during the calendar year, the tax return copy and the employee's copy of a statement on Form W-2. For example, if the wage bracket method of withholding provided in section 3402 (c)(1) is used, a statement on Form W-2 must be furnished to each employee whose wages during any payroll period are equal to or in excess of the smallest wage from which tax must be withheld in the case of an employee claiming one exemption. If the percentage method is used, a statement on Form W-2 must be furnished to each employee whose wages during any payroll period are in excess of one withholding exemption for such payroll period as shown in the percentage method withholding table contained in section 3402(b)(1). Each statement on Form W-2 shall show the following:

(*a*) The name, address, and identification number of the employer,

(*b*) The name and address of the employee, and, if wages as defined in section 3121(a) have been paid, his social security account number,

(*c*) The total amount of wages as defined in section 3401(a),

(*d*) The total amount deducted and withheld as tax under section 3402,

(*e*) The total amount of wages as defined in section 3121(a), and

(*f*) The total amount of employee tax under section 3101 deducted and withheld (increased by any adjustment in the calendar year for overcollection, or decreased by any adjustment in such year for undercollection, of such tax during any prior year).

See paragraph (d) of this section for provisions relating to the time for furnishing the statement required by this subparagraph.

(ii) Payments made in 1955 under a wage continuation plan shall be reported on Form W-2 to the extent, and in the manner, provided in paragraph (b)(8)(i) of § 31.3401(a)-1 of Subpart E of the regulations in this part.

(iii) In the case of statements furnished by the employer for whom services are performed, with respect to wages paid after December 31, 1955, "the total amount of wages as defined in section 3401(a)", as used in section 6051(a)(3), shall include all payments made directly by such employer under a wage continuation plan which constitute wages in accordance with § 31.3401 (a)-1(b)(8)(ii)(*a*), without regard to whether tax has been withheld on such amounts.

(iv) Form W-2 is not required in respect of any wage continuation payment made to an employee by or on behalf of a person who is not the employer for whom the employee performs services but who is regarded as an employer under section 3401(d)(1). See paragraph (b)(8) of § 31.3401(a)-1 of Subpart E of the regulations in this part.

(v) In the case of remuneration paid for service described in section 3121(m), relating to service in the uniformed services, performed after 1956, "wages as defined in section 3121(a)", as used in section 6051(a) (2) and (5), shall be determined in accordance with section 3121(i)(2) and section 3122.

(2) *Statements for members of the Armed Forces of the United States.* Section 6051(b) contains certain special provisions which are applicable in the case of members of the Armed Forces of the United States in active service. In such case, Form W-2 shall be furnished to each such member of the Armed Forces if any tax has been withheld under section 3402 during the calendar year from the remuneration of such member or if any of the remuneration paid during the calendar year for such active service is includible under chapter 1 in the gross income of such member. Form W-2, in the case of such member, shall show, as "the total amount of wages as defined in section 3401(a)", as used in section 6051(a)(3), the amount of the

remuneration paid during the calendar year which is not excluded under chapter 1 of the Internal Revenue Code of 1954 from the gross income of such member, whether or not such remuneration constitutes wages as defined in section 3401(a) and whether or not paid for such active service.

(3) *Undelivered Forms W-2.* The tax return copy and the employee's copy of each withholding statement on Form W-2 for the calendar year which the employer is required to furnish to the employee and which after reasonable effort he is unable to deliver to the employee shall be transmitted to the district director with the return on Form 941 filed by the employer for the return period ending June 30 in the next succeeding calendar year or with the employer's final return if filed for a period ending on an earlier date. Thus, the undelivered copies of Forms W-2 ordinarily will be transmitted to the district director on or before July 31 or August 10 of the year following that for which they were issued, depending upon when the return for such return period is required to be filed. In the case of an employer having branch offices, the undelivered copies of Forms W-2 held in such branch offices may be transmitted by the employer with such return or, at the option of the employer, may be transmitted by the branch office directly to the district director for the internal revenue district in which the branch office is located. Such direct transmittal by branch offices shall be made at the time prescribed for the filing of the employer's return for the return period ending June 30 in the calendar year following that for which the Forms W-2 were issued or at the time of the filing of the employer's final return if filed for a period ending on an earlier date. The provisions of this subparagraph are also applicable with respect to any undelivered corrected statements issued for a prior calendar year.

(b) *Requirement if wages are not subject to withholding of income tax*—(1) *General rule.* If during the calendar year an employer pays to an employee wages subject to the employee tax imposed by section 3101, and the employer is not required by paragraph (a) of this section to furnish to such employee a statement on Form W-2 for such calendar year, the employer shall, in accordance with the provisions of this paragraph, furnish a written statement to the employee with respect to such wages. Such statement shall be in a form suitable for retention by the employee and shall show, with respect to the wages paid by the employer to the employee during the calendar year for employment after 1936, the following:

(i) The name and address of the employer,

(ii) The name, address, and social security account number of the employee,

(iii) The total amount of wages as defined in section 3121(a), and

(iv) The total amount of employee tax deducted and withheld from such wages (increased by any adjustment in such year for overcollection, or decreased by any adjustment in such year for undercollection, of employee tax during any prior year).

See paragraph (d) of this section for provisions relating to the time for furnishing the statement required by this paragraph.

(2) *Uniformed services.* In the case of remuneration paid for service described in section 3121(m), relating to service in the uniformed services, performed after 1956, "wages as defined in section 3121(a)", as used in section 6051(a)(5), shall be determined in accordance with section 3121(i)(2) and section 3122.

(3) *Form of statement.* No particular form is prescribed for the statement required by this paragraph. For the convenience of employers in complying with the requirements of this paragraph, copies of a form of statement, Form SS-14, will be furnished by district directors upon request.

(c) *Correction of statements*—(1) *Federal Insurance Contributions Act.* If (i) the amount of employee tax under section 3101 deducted and withheld in the calendar year from the wages, as defined in section 3121(a), paid during such year was less or greater than the tax imposed by section 3101 on such wages by reason of the adjustment in such year of an overcollection or undercollection of the tax in any prior year, or (ii) regardless of the reason for the error or the method of its correction, the amount of wages as defined in section 3121(a), or tax under section 3101, entered on a statement furnished pursuant to this section to an employee for a prior year was incorrect, a corrected statement for such prior year reflecting the adjustment or the correct data shall be furnished to the employee. Such statement shall be marked "Corrected by Employer".

(2) *Income tax withholding.* A corrected statement on Form W-2 shall be furnished to the employee with respect to a prior calendar year (i) to show the correct amount of wages, as defined in section 3401(a), paid during the prior calendar year if the amount of such wages entered on a statement furnished to the employee for such prior year is incorrect, or (ii) to show the amount actually deducted and withheld as tax under section 3402 if such amount is less or greater than the amount entered as tax withheld on the statement furnished the employee for such prior year. Such statement shall be marked "Corrected by Employer".

(3) *Cross reference.* For provisions relating to the disposition of the district director's copy of a corrected Form W-2, see paragraph (b)(4) of § 31.6011(a)-4.

(d) *Time for furnishing statements*—(1) *In general.* Each statement required by this section for a calendar year and each corrected statement required for any prior year shall be furnished to the employee on or before January 31 of the year succeeding such calendar year, or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of wages is made. For provisions relating to the filing of the district director's copies of Form W-2, see paragraph (b) of § 31.6011 (a)-4.

(2) *Extensions of time.* (i) For good cause shown upon written application by an employer, the district director may grant an extension of time not exceeding 30 days in which to furnish to employees the statements required by this section. Each application for an extension of time under this subdivision shall be made in writing, properly signed by the employer or his duly authorized agent; shall be addressed to the district director with whom the employer files his returns; and shall contain a full recital of the reasons for requesting the extension, to aid the district director in determining the period of the extension, if any, which will be granted. Such a request in the form of a letter to the district director will suffice as an application. The application shall be filed on or before the date prescribed in subparagraph (1) of this paragraph for furnishing the statements required by this section. In any case in which an employer is unable, by reason of illness, absence, or other good cause, to sign a request for an extension, any person standing in close personal or business relationship to the employer may sign the request on his behalf, and shall be considered as a duly authorized agent for this purpose, provided the request sets forth a reason for a signature other than the employer's and the relationship existing between the employer and the signer. For provisions relating to extensions of time for filing the district director's copies of Form W-2, see paragraph (a)(3) of § 31.6081(a)-1.

(ii) An extension of time, not exceeding 30 days, within which to furnish any statement required by this section upon termination of employment is hereby granted to any employer with respect to any employee whose employment is terminated during the calendar year. In the case of intermittent or interrupted employment where there is reasonable expectation on the part of both employer and employee of further employment, there is no requirement that a written statement be immediately furnished the employee; but when such expectation ceases to exist, the statement must be furnished within 30 days from that time.

(3) *Cross references.* For provisions relating to the penalties provided for the willful furnishing of a false or fraudulent statement, or for the willful failure to furnish a statement, see § 31.6674-1 and section 7204.

§ 31.6061 Statutory provisions; signing of returns and other documents.

SEC. 6061. *Signing of returns and other documents.* * * * any return, statement, or other document required to be made under any provision of the internal revenue laws or regulations shall be signed in accordance with forms or regulations prescribed by the Secretary or his delegate.

§ 31.6061-1 Signing of returns.

Each return required under the regulations in this subpart shall, if signature is called for by the form or instructions relating to the return, be signed by (a) the individual, if the person required to make the return is an individual; (b) the president, vice president, or other principal officer, if the person required to make the return is a corporation; (c) a responsible and duly authorized member or officer having knowledge of its affairs, if the person required to make the return is a partnership or other unincorporated organization; or (d) the fiduciary, if the person required to make the return is a trust or estate. The return may be signed for the taxpayer by an agent who is duly authorized in accordance with § 31.6011(a)-7 to make such return.

§ 31.6065(a) Statutory provisions; verification of returns.

SEC. 6065. *Verification of returns*—(a) *Penalties of perjury.* Except as otherwise provided by the Secretary or his delegate, any return, declaration, statement, or other document required to be made under any provision of the internal revenue laws or regulations shall contain or be verified by a written declaration that it is made under the penalties of perjury.

§ 31.6065(a)-1 Verification of returns or other documents.

If a return, statement, or other document made under the regulations in this part is required by the regulations contained in this part, or the form and instructions issued with respect to such return, statement, or other document, to contain or be verified by a written declaration that it is made under the penalties of perjury, such return, statement, or other document shall be so verified by the person signing it.

§ 31.6091 Statutory provisions; place for filing returns.

SEC. 6091. *Place for filing returns or other documents*—(a) *General rule.* When not otherwise provided for by this title, the Secretary or his delegate shall by regulations prescribe the place for the filing of any return, declaration, statement, or other document, or copies thereof, required by this title or by regulations.

(b) *Tax returns.* In the case of returns of tax required under authority of part II of this subchapter—

(1) *Individuals.* Returns (other than corporation returns) shall be made to the Secretary or his delegate in the internal revenue district in which is located the legal residence or principal place of business of the person making the return, or, if he has no legal residence or principal place of business in any internal revenue district, then at such place as the Secretary or his delegate may by regulations prescribe.

(2) *Corporations.* Returns of corporations shall be made to the Secretary or his delegate in the internal revenue district in which is located the principal place of business or principal office or agency of the corporation, or, if it has no principal place of business or principal office or agency in any internal revenue district, then at such place as the Secretary or his delegate may by regulations prescribe.

* * * * *

(4) *Exceptional cases.* Notwithstanding paragraph (1), (2) * * * of this subsection, the Secretary or his delegate may permit a return to be filed in any internal revenue district, and may require the return of any officer or employee of the Treasury Department to be filed in any internal revenue district selected by the Secretary or his delegate.

§ 31.6091-1 Place for filing returns.

(a) *Persons other than corporations.* The return of a person other than a corporation shall be filed with the district director for the internal revenue district in which is located the principal place of business or legal residence of such person. If such person has no principal place of business or legal residence in any internal revenue district, the return shall be filed with the District Director at Baltimore, Maryland, except as provided in paragraph (c) of this section.

(b) *Corporations.* The return of a corporation shall be filed with the district director for the district in which is located the principal place of business or principal office or agency of the corporation, except as provided in paragraph (c) of this section.

(c) *Return of taxpayers outside the United States.* The return of a person (other than a corporation) outside the United States having no legal residence or principal place of business in any internal revenue district, or the return of a corporation having no principal place of business or principal office or agency in any internal revenue district, shall be filed with the Director, International Operations Division, Internal Revenue Service, Washington 25, D.C., unless the principal place of business or legal residence of such person, or the principal place of business or principal office or agency of such corporation, is located in the Virgin Islands or Puerto Rico, in which case the return shall be filed with the Office of the Director, International Operations Division, United States Internal Revenue Service, Santurce, Puerto Rico.

(d) *Exceptional cases*—(1) *Permission to file in district other than required district.* The Commissioner may permit the filing of any return required to be made under the regulations in this subpart in any internal revenue district, notwithstanding the provisions of paragraphs (1) and (2) of section 6091(b) and paragraphs (a), (b), and (c) of this section.

(2) *Returns of officers and employees of the Internal Revenue Service.* The Commissioner may require any officer or employee of the Internal Revenue Service to file any return required of him under the regulations in this subpart in any internal revenue district selected by the Commissioner, notwithstanding the provisions of paragraphs (1) and (2) of section 6091(b) and paragraphs (a), (b), and (c) of this section.

§ 31.6101 Statutory provisions; period covered by returns or other documents.

SEC. 6101. *Period covered by returns or other documents.* When not otherwise provided for by this title, the Secretary or his delegate may by regulations prescribe the period for which, or the date as of which, any return, statement, or other document required by this title or by regulations, shall be made.

§ 31.6101-1 Period covered by returns.

The period covered by any return required under the regulations in this subpart shall be as provided in those provisions of the regulations under which the return is required to be made. See § 31.6011(a)-1, relating to returns of taxes under the Federal Insurance Contributions Act; § 31.6011(a)-2, relating to returns of taxes under the Railroad Retirement Tax Act; § 31.6011(a)-3, relating to returns of tax under the Federal Unemployment Tax Act; § 31.6011(a)-4, relating to returns of income tax withheld under section 3402; and § 31.6011(a)-5, relating to monthly returns of taxes under the Federal Insurance Contributions Act and of income tax withheld under section 3402.

§ 31.6161(a)(1) Statutory provisions; extension of time for paying tax.

SEC. 6161. *Extension of time for paying tax*—(a) *Amount determined by taxpayer on return*—(1) *General rule.* The Secretary or his delegate, except as otherwise provided in this title, may extend the time for payment of the amount of the tax shown, or required to be shown, on any return or declaration required under authority of this title (or any installment thereof), for a reasonable period not to exceed 6 months from the date fixed for payment thereof. Such extension may exceed 6 months in the case of a taxpayer who is abroad.

§ 31.6161(a)(1)-1 Extensions of time for paying tax.

No extension of time will be granted for payment of any of the taxes to which the regulations in this part have application.

§ 31.6205 Statutory provisions; special rules applicable to certain employment taxes.

SEC. 6205. *Special rules applicable to certain employment taxes*—(a) *Adjustment of tax*—(1) *General rule.* If less than the correct amount of tax imposed by section 3101, 3111, 3201, 3221, or 3402 is paid with respect to any payment of wages or compensation, proper adjustments, with respect to both the tax and the amount to be deducted, shall be made, without interest, in such manner and at such times as the Secretary or his delegate may by regulations prescribe.

(2) *United States as employer.* For purposes of this subsection, in the case of remuneration received from the United States or a wholly-owned instrumentality thereof during any calendar year, each head of a Federal agency or instrumentality who makes a return pursuant to section 3122 and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall be deemed a separate employer.

(b) *Underpayments.* If less than the correct amount of tax imposed by section 3101, 3111, 3201, 3221, or 3402 is paid or deducted with respect to any payment of wages or compensation and the underpayment cannot be adjusted under subsection (a) of this section, the amount of the underpayment shall be assessed and collected in such manner and at such times (subject to the statute of limitations properly applicable thereto) as the Secretary or his delegate may by regulations prescribe.

§ 31.6205-1 Adjustments of underpayments.

(a) *In general.* (1) An employer who makes, or has made, an undercollection or underpayment of—

(i) Employee tax under section 3101, employer tax under section 3111, or the employee or employer tax under corresponding provisions of prior law,

(ii) Employee tax under section 3201, employer tax under section 3221, or the employee or employer tax under corresponding provisions of prior law, or

(iii) Income tax required under section 3402 to be withheld,

with respect to any payment of wages or compensation, shall correct such error as provided in this section. Such correction shall constitute an adjustment without interest to the extent provided in paragraph (b) or (c) of this section.

(2) Every correction under this section of an underpayment of tax with respect to a payment of wages or compensation shall be made on the return form which is prescribed for use, at the time the correction is made, in reporting tax which corresponds to the tax underpaid.

(3) Every return or supplemental return on which an underpayment is corrected pursuant to this section must have securely attached as a part thereof a statement explaining the correction, designating the return period in which the error was ascertained and the return period to which the error relates, and setting forth such other information as may be required by the regulations in this subpart and by the instructions relating to the return.

(4) For purposes of this section, an error is ascertained when the employer has sufficient knowledge of the error to be able to correct it.

(5) If a correction is made under this section with respect to the erroneous reporting on a return, or omission from a return, under the Federal Insurance Contributions Act, as in effect prior to or on and after January 1, 1955, of an amount of wages required to be shown on the return as a separate item in respect of a particular employee, the statement referred to in subparagraph (3) of this paragraph shall include the following information:

(i) The name and account number of each employee whose wages were erroneously reported or omitted from such return,

(ii) The period for which such wages were required to be reported on such return,

(iii) The amount, if any, of wages actually reported on such return for each such employee, and

(iv) The amount of wages which should have been reported on such return for each such employee.

No particular form is prescribed for furnishing the information required by this subparagraph, but if printed forms are desired, the district director will supply Form 941c or Form 941c PR, whichever is appropriate, upon request.

(6) No underpayment shall be reported pursuant to this section after receipt from the district director of notice and demand for payment thereof based upon an assessment, but the amount shall be paid in accordance with such notice and demand.

(7) For provisions relating to correction of erroneous statements furnished to employees in respect of wages subject to withholding of income tax under section 3402, and of wages under the Federal Insurance Contributions Act, see paragraph (c) of § 31.6051-1.

(b) *Federal Insurance Contributions Act and Railroad Retirement Tax Act*—(1) *Undercollection ascertained before return is filed.* If no employee tax or less than the correct amount of employee tax is deducted from any payment to an employee of wages, as defined in the Federal Insurance Contributions Act, or compensation as defined in the Railroad Retirement Tax Act, and the error is ascertained before the filing of the return on which the employee tax with respect to such wages or compensation is required to be reported, the employer shall nevertheless report on such return and pay to the district director the correct amount of such employee tax. However, the reporting and payment by the employer of the correct amount of such tax in accordance with this subparagraph do not constitute an adjustment.

(2) *Underpayment ascertained after return is filed.* (i) If a return is filed, and if no employee tax, no employer tax, or less than the correct amount of either such tax with respect to any payment to an employee of wages as defined in the Federal Insurance Contributions Act or corresponding provisions of prior law, or compensation as defined in the Railroad Retirement Tax Act or corresponding provisions of prior law, is reported on such return and paid to the district director, the employer shall adjust the underpayment (*a*) by reporting the additional amount due by reason of the underpayment as an adjustment on a return filed on or before the last day on which the return is required to be filed for the return period in which the error is ascertained, or (*b*) by reporting such additional amount on a supplemental return for the return period in which such payment of wages or compensation is made. The reporting of such underpayment on a supplemental return constitutes an adjustment within the meaning of this section only when the supplemental return is filed on or before the last day on which the return is required to be filed for the return period in which the error is ascertained. The amount of each underpayment adjusted in accordance with this subdivision shall be paid to the district director, without interest, at the time fixed for reporting the adjustment. If an adjustment is reported pursuant to this subdivision, but the amount thereof is not paid when due, interest thereafter accrues (see section 6601).

(ii) If a return is filed, and if no employee tax, no employer tax, or less than the correct amount of either such tax with respect to a payment to an employee of wages or compensation is reported on such return and paid to the district director, and such underpayment is not reported as an adjustment within the time prescribed by subdivision (i) of this subparagraph, the amount of such underpayment shall be (*a*) reported on the employer's next return, or (*b*) reported immediately on a supplemental return. For interest accruing on amounts so reported, see section 6601 and corresponding provisions of prior law.

(3) *Deductions from employees.* If an employer collects no employee tax or less than the correct amount of employee tax from an employee with respect to a payment of wages as defined in the Federal Insurance Contributions Act or corresponding provisions of prior law, or compensation as defined in the Railroad Retirement Tax Act or corresponding provisions of prior law, the employer shall collect the amount of the undercollection by deducting such amount from remuneration of the employee, if any, under his control after he ascertains the error. Such deductions may be made even though the remuneration, for any reason, does not constitute wages or compensation. The amount of an undercollection of employee tax from an employee shall be reported and paid, as provided in subparagraph (1) or (2) of this paragraph, whether or not the undercollection is corrected by a deduction made as prescribed in the foregoing provisions of this subparagraph. If such a deduction is not made, the obligation of the employee to the employer with respect to the undercollection is a matter for settlement between the employee and the employer. If any employer makes an erroneous collection of employee tax from two or more of his employees, a separate settlement must be made with respect to each employee. Thus, an overcollection of employee tax from one employee may not be used to offset an undercollection of such tax from another employee.

(c) *Income tax required to be withheld from wages*—(1) *Undercollection ascertained before return is filed.* If no income tax, or less than the correct amount of income tax, required under section 3402 to be withheld from wages is deducted from wages paid to an employee in any return period, and if the error is ascertained before the return is filed for the period in which such wages are paid, the employer shall nevertheless report on such return the correct amount of the tax required to be withheld. However, the reporting and payment by an employer of tax in accordance with this subparagraph do not constitute an adjustment.

(2) *Underpayment ascertained after return is filed.* (i) If a return is filed for a return period, and if no income tax, or less than the correct amount of income tax, required under section 3402 to be withheld from wages paid to an employee in such period, is reported on a return and paid to the district director, the employer shall (*a*) report the additional amount due by reason of the underpayment on a return for any return period in the calendar year in which the wages were paid, or (*b*) report such additional amount on a supplemental return for the return period in which such wages were paid. Such reporting constitutes an adjustment within the meaning of this section only if the return or supplemental return on which the underpayment is reported is filed on or before the last day on which the return is required to be filed for the return period in which the error was ascertained.

(ii) If a return is filed for a return period, and if no income tax, or less than the correct amount of income tax, required under section 3402 to be withheld from wages paid to an employee in such period is reported on such return and paid to the district director, and such underpayment is not reported as an adjustment within the time prescribed by subdivision (i) of this subparagraph, the amount of such underpayment shall be (*a*) reported on the employer's next return, if such next return is for any return period in the calendar year in which the wages were paid, or (*b*) reported immediately on a supplemental return.

(3) *Payment of amounts reported as undercollections or underpayments.* (i) For provisions relating to the employer's liability for an underpayment of tax unless he can show that the income tax against which the tax under section 3402 may be credited has been paid, see § 31.3402(d)-1 of Subpart E of the regulations in this part.

(ii) Except as provided in § 31.3402(d)-1 of Subpart E of the regulations in this part, any amount reported as an adjustment within the meaning of this paragraph shall be paid to the district director, without interest, at the time fixed for reporting the adjustment.

(iii) For interest accruing on amounts which are not paid when due, see section 6601.

(4) *Deductions from employee.* If no income tax, or less than the correct amount of income tax, required under section 3402 to be withheld from wages is deducted from wages paid to an employee in a calendar year, the employer shall collect the amount of the undercollection on or before the last day of such year by deducting such amount from remuneration of the employee, if any, under his control. Such deductions may be made even though the remuneration, for any reason, does not constitute wages. Any undercollection in a calendar year not corrected by a deduction made pursuant to the foregoing provisions of this subparagraph is a matter for settlement between the employee and the employer within such calendar year. For provisions relating to the employer's liability for the tax, whether or not he collects it from the employee, see § 31.3403-1 of Subpart E of the regulations in this part.

§ 31.6302(b) Statutary provisions; mode or time of collection; discretionary method.

SEC. 6302. *Mode or time of collection.* * * * (b) *Discretionary method.* Whether or not the method of collecting any tax imposed by chapters 21, 31, 32, 33, section 4481 of chapter 36, sections 4501(a) or 4511 of chapter 37, or sections 4701 or 4721 of chapter 39 is specifically provided for by this title, any such tax may, under regulations prescribed by the Secretary or his delegate, be collected by means of returns, stamps, coupons, tickets, books, or such other reasonable devices or methods as may be necessary or helpful in securing a complete and proper collection of the tax.

[Sec. 6302(b) as amended by sec. 206(b), Highway Revenue Act 1956 (70 Stat. 391)]

§ 31.6302(b)-1 Method of collection.

For provisions relating to collection by means of returns of the taxes imposed by chapter 21 (Federal Insurance Contributions Act), see §§ 31.6011(a)-1 and 31.6011(a)-5.

§ 31.6402(a) Statutory provisions; authority to make credits or refunds.

SEC. 6402. *Authority to make credits or refunds*—(a) *General rule.* In the case of any overpayment, the Secretary or his delegate, within the applicable period of limitations, may credit the amount of such overpayment, including any interest allowed thereon, against any liability in respect of an internal revenue tax on the part of the person who made the overpayment and shall refund any balance to such person.

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§ 31.6402(a)-1 Credits or refunds.

(a) *In general.* For regulations under section 6402 of special application to credits or refunds of employment taxes, see §§ 31.6402(a)-2, 31.6402(a)-3, and 31.6414-1. For regulations under section 6402 of general application to credits or refunds, see §§ 301.6402-1 and 301.6402-2 of this chapter (Regulations on Procedure and Administration). For provisions relating to credits of employment taxes which constitute adjustments without interest, see §§ 31.6413(a)-1 and 31.6413(a)-2.

(b) *Period of limitation.* For the period of limitation upon credit or refund of taxes imposed by the Internal Revenue Code of 1954, see § 301.6511(a)-1 of this chapter (Regulations on Procedure and Administration). For the period of limitation upon credit or refund of any tax imposed by the Internal Revenue Code of 1939, see the regulations applicable with respect to such tax.

§ 31.6402(a)-2 Credit or refund of tax under Federal Insurance Contributions Act or Railroad Retirement Tax Act.

(a) *Claim by person who paid tax to district director*—(1) *In general.* Any person who pays to the district director more than the correct amount of—

(i) Employee tax under section 3101, or employer tax under section 3111, of the Federal Insurance Contributions Act,

(ii) Employee tax under section 3201, employee representative tax under section 3211, or employer tax under section 3221, of the Railroad Retirement Tax Act,

(iii) Any such tax under a corresponding provision of prior law, or

(iv) Interest, addition to the tax, additional amount, or penalty with respect to any such tax,

may file a claim for refund of the overpayment (except to the extent that the overpayment must be credited pursuant to § 31.3503-1 of Subpart F of the regulations in this part), or may claim credit for such overpayment, in the manner and subject to the conditions stated in this section and § 301.6402-2 of this chapter (Regulations on Procedure and Administration). If credit is claimed pursuant to this section, the amount thereof shall be claimed by entering such amount as a deduction on a return filed by the person making the claim. The return on which the credit is claimed must be on a form which is prescribed for use, at the time of the claim, in reporting tax which corresponds to the tax overpaid. If credit is taken pursuant to this section, a claim on Form 843 is not required, but the return on which the credit is claimed shall have attached as a part thereof a statement which shall constitute the claim for credit, setting forth in detail the grounds and facts relied upon in support of the credit, designating the return period in which the error was ascertained, and setting forth such other information as may be required by the regulations in this subpart and by the instructions relating to the return. No refund or credit of employee tax under the Federal Insurance Contributions Act shall be allowed if for any reason (for example, an overcollection of employee tax having been inadvertently included by the employee in computing a special refund—see § 31.6413(c)-1) the employee has taken the amount of such tax into account in claiming a credit against, or refund of, his income tax, or if so, such claim has been rejected.

(2) *Statements supporting employers' claims for employee tax.* (i) Every claim filed by an employer for refund or credit of employee tax under section 3101 or section 3201, or a corresponding provision of prior law, collected from an employee shall include a statement that the employer has repaid the tax to such employee or has secured the written consent of such employee to allowance of the refund or credit. The employer shall retain as part of his records the written receipt of the employee showing the date and amount of the repayment, or the written consent of the employee, whichever is used in support of the claim.

(ii) Every claim filed by an employer for refund or credit of employee tax under section 3101, or a corresponding provision of prior law, collected from an employee in a calendar year prior to the year in which the credit or refund is claimed, also shall include a statement that the employer has obtained from the employee a written statement (*a*) that the employee has not claimed refund or credit of the amount of the overcollection, or if so, such claim has been rejected, and (*b*) that the employee will not claim refund or credit of such amount. The employer shall retain the employee's written statement as part of the employer's records.

(b) *Claim by employee*—(1) *In general.* If more than the correct amount of employee tax under section 3101 or section 3201, or a corresponding provision of prior law, is collected by an employer from an employee and paid to the district director, the employee may file a claim for refund of the overpayment if (i) the employee does not receive reimbursement in any manner from the employer and does not authorize the employer to file a claim and receive refund or credit, (ii) the overcollection cannot be corrected under § 31.3503-1 of Subpart F of the regulations in this part, and (iii) in the case of employee tax under section 3101 or a corresponding provision of prior law, the employee has not taken the overcollection into account in claiming a credit against, or refund of, his income tax, or if so, such claim has been rejected. See § 31.6413(c)-1.

(2) *Statements supporting employee's claim.* (i) Each employee who makes a claim under subparagraph (1) of this paragraph shall submit with such claim a statement setting forth (*a*) the extent, if any, to which the employer has reimbursed the employee in any manner for the overcollection, and (*b*) the amount, if any, of credit or refund of such overpayment claimed by the employer or authorized by the employee to be claimed by the employer. The employee shall obtain such statement, if possible, from the employer, who should include in such statement the fact that it is made in

support of a claim against the United States to be filed by the employee for refund of employee tax paid by such employer to the district director. If the employer's statement is not submitted with the claim, the employee shall make the statement to the best of his knowledge and belief, and shall include therein an explanation of his inability to obtain the statement from the employer.

(ii) Each individual who makes a claim under subparagraph (1) of this paragraph for refund of employee tax under section 3101, or a corresponding provision of prior law, also shall submit with such claim a statement setting forth whether the individual has taken the amount of the overcollection into account in claiming a credit against, or refund of, his income tax, and the amount, if any, so claimed (see § 31.6413(c)-1).

(c) *Statements to accompany employers' and employees' claims under the Federal Insurance Contributions Act.* Whenever a claim for credit or refund of employee tax under section 3101, employer tax under section 3111, or either such tax under a corresponding provision of prior law, is made with respect to remuneration which was erroneously reported on a return or schedule as wages paid to an employee, such claim shall include a statement showing (1) the identification number of the employer, if he was required to make application therefor, (2) the name and account number of such employee, (3) the period covered by such return or schedule, (4) the amount of remuneration actually reported as wages for such employee, and (5) the amount of wages which should have been reported for such employee. No particular form is prescribed for making such statement, but if printed forms are desired, the district director will supply copies of Form 941c or Form 941c PR, whichever is appropriate, upon request.

§ 31.6402(a)-3 Refund of Federal unemployment tax.

Any person who pays to the district director more than the correct amount of—

(a) Tax under section 3301 of the Federal Unemployment Tax Act or a corresponding provision of prior law, or

(b) Interest, addition to the tax, additional amount, or penalty with respect to such tax,

may file a claim for refund of the overpayment, in the manner and subject to the conditions stated in § 301.6402-2 of this chapter (Regulations on Procedure and Administration). See § 31.6413(d) and the corresponding section of prior law for provisions which bar the allowance or payment of interest on the amount of any refund based on credit allowable for contributions paid under the unemployment compensation law of a State.

§ 31.6404(a) Statutory provisions; abatements.

SEC. 6404. *Abatements*—(a) *General rule.* The Secretary or his delegate is authorized to abate the unpaid portion of the assessment of any tax or any liability in respect thereof, which—

(1) Is excessive in amount, or

(2) Is assessed after the expiration of the period of limitation properly applicable thereto, or

(3) Is erroneously or illegally assessed.

§ 31.6404(a)-1 Abatements.

For regulations under section 6404 of general application to the abatement of taxes, see § 301.6404-1 of this chapter (Regulations on Procedure and Administration). Every claim filed by an employer for abatement of employee tax under section 3101 or section 3201, or a corresponding provision of prior law, shall be made in the manner and subject to the conditions stated in paragraphs (a)(2) and (c) of § 31.6402(a)-2, as if the claim for abatement were a claim for refund.

§ 31.6413(a) Statutory provisions; special rules applicable to certain employment taxes; adjustment of tax.

SEC. 6413. *Special rules applicable to certain employment taxes*—(a) *Adjustment of tax*—(1) *General rule.* If more than the correct amount of tax imposed by section 3101, 3111, 3201, 3221, or 3402 is paid with respect to any payment of remuneration, proper adjustments, with respect to both the tax and the amount to be deducted, shall be made, without interest, in such manner and at such times as the Secretary or his delegate may by regulations prescribe.

(2) *United States as employer.* For purposes of this subsection, in the case of remuneration received from the United States or a wholly-owned instrumentality thereof during any calendar year, each head of a Federal agency or instrumentality who makes a return pursuant to section 3122 and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall be deemed a separate employer.

§ 31.6413(a)-1 Repayment by employer of tax erroneously collected from employee.

(a) *Before employer files return*—(1) *Employee tax under the Federal Insurance Contributions Act or the Railroad Retirement Tax Act.* (i) If an employer—

(*a*) During any return period collects from an employee more than the correct amount of tax under section 3101 or section 3201, or a corresponding provision of prior law,

(*b*) Repays the amount of the overcollection to the employee before the return for such period is filed with the district director, and

(*c*) Obtains and keeps as part of his records the written receipt of the employee showing the date and amount of the repayment,

the employer shall not report on any return or pay to the district director the amount of the overcollection.

(ii) Any overcollection not repaid to and receipted for by the employee as provided in subdivision (i) of this subparagraph shall be reported and paid to the district director with the return for the return period in which the overcollection was made. Such return shall be accompanied by a statement explaining the overcollection, setting forth the account number (if known) and name of the individual from whom the overcollection was made, and showing the total amount overcollected from and not repaid to the individual. If the employer is not required to make a return for such period, the employer nevertheless shall furnish to the district director a statement as described in the preceding sentence, on or before the date fixed for filing a return for such period, and shall pay the amount of the overcollection with such statement.

(2) *Income tax withheld from wages.* (i) If an employer—

(*a*) During any return period collects from an employee more than the correct amount of tax under section 3402,

(*b*) Repays the amount of the overcollection to the employee before the return for such period is filed with the district director and before the end of the calendar year in which the overcollection was made, and

(*c*) Obtains and keeps as part of his records the written receipt of the employee showing the date and amount of the repayment,

the employer shall not report on any return or pay to the district director the amount of the overcollection.

(ii) Any overcollection not repaid to and receipted for by the employee as provided in subdivision (i) of this subparagraph shall be reported and paid to the district director with the return for the return period in which the overcollection was made.

(b) *After employer files return*—(1) *Employee tax under the Federal Insurance Contributions Act or the Railroad Retirement Tax Act.* (i) If an employer collects from any employee and pays to the district director more than the correct amount of employee tax under section 3101 or section 3201, or a corresponding provision of prior law, and if the error is ascertained within the applicable period of limitation on credit or refund, the employer shall repay or reimburse the employee in the amount thereof prior to the expiration of the return period following the return period in which the error is ascertained and prior to the expiration of such limitation period. This subparagraph has no application in any case in which an overcollection is made the subject of a claim by the employer for refund or credit, and the employer elects to secure the written consent of the employee to the allowance of the refund or credit under the procedure provided in paragraph (a)(2)(i) of § 31.6402(a)-2.

(ii) If the amount of an overcollection is repaid to an employee, the employer shall obtain and keep as part of his records the written receipt of the employee, showing the date and amount of the repayment. If, in any calendar year, an employer repays or reimburses an employee in the amount of an overcollection of employee tax under section 3101, or a corresponding provision of prior law, which was collected from the employee in a prior calendar year, the employer shall obtain from the employee and keep as part of his records a written statement (*a*) that the employee has not claimed refund or credit of the amount of the overcollection, or if so, such claim has been rejected, and (*b*) that the employee will not claim refund or credit of such amount. See § 31.6413(c)-1.

(iii) If the employer does not repay the employee the amount overcollected, the employer shall reimburse the employee by applying the amount of the overcollection against the employee tax which attaches to wages or compensation paid to the employee prior to the expiration of the return period following the return period in which the error is ascertained and prior to the expiration of the applicable period of limitation on credit or refund. If the amount of the overcollection exceeds the amount so applied against such employee tax, the excess amount shall be repaid to the employee as required by this subparagraph.

(iv) For purposes of this subparagraph, an error is ascertained when the employer has sufficient knowledge of the error to be able to correct it.

(v) For the period of limitation upon credit or refund of taxes imposed by the Internal Revenue Code of 1954, see § 301.6511(a)-1 of this chapter (Regulations on Procedure and Administration). For the period of limitation upon credit or refund of any tax imposed by the Internal Revenue Code of 1939, see the regulations applicable with respect to such tax.

(2) *Income tax withheld from wages.* (i) If, in any return period in a calendar year, an employer collects from any employee more than the correct amount of tax under section 3402, and the employer pays the amount of such overcollection to the district director, the employer may repay or reimburse the employee in the amount thereof in any subsequent return period in such calendar year.

(ii) If the amount of the overcollection is repaid to the employee, the employer shall obtain and keep as part of his records the written receipt of the employee, showing the date and amount of the repayment. If the employer does not repay the amount of the overcollection, the employer may reimburse the employee by applying the amount of the overcollection against the tax under section 3402 which otherwise would be required to be withheld from wages paid by the employer to the employee in the calendar year in which the overcollection is made.

§ 31.6413(a)-2 Adjustment of overpayments.

(a) *Taxes under the Federal Insurance Contributions Act or the Railroad Retirement Tax Act*—(1) *Employee tax.* After an employer repays or reimburses an employee in the amount of an overcollection, as provided in paragraph (b)(1) of § 31.6413(a)-1, the employer may claim credit for such amount in the manner, and subject to the conditions, stated in § 31.6402(a)-2. Such credit shall constitute an adjustment, without interest, if the amount thereof is entered on a return for a period ending on or before the last day of the return period following the return period in which the error was ascertained. No credit or adjustment in respect of an overpayment shall be entered on a return after the filing of a claim for refund of such overpayment.

(2) *Employer tax.* If an employer pays more than the correct amount of employer tax under section 3111 or section 3221, or a corresponding provision of prior law, the employer may claim credit for the amount of the overpayment in the manner, and subject to the conditions, stated in § 31.6402(a)-2. Such credit shall constitute an adjustment, without interest, if the amount thereof is entered on the same return on which the employer adjusts, pursuant to subparagraph (1) of this paragraph, a corresponding overpayment of employee tax.

(b) *Income tax withheld from wages.* If, pursuant to paragraph (b)(2) of § 31.6413(a)-1, an employer repays or reimburses an employee in the amount of an overcollection of tax under section 3402, the employer may adjust the overcollection, without interest, by entering the amount thereof as a deduction on a return of tax under section 3402, filed by the employer for any return period in the calendar year in which the employer repays or reimburses the employee. The return on which the adjustment is entered as a deduction shall have attached thereto a statement explaining the adjustment, designating the return period in which the error occurred, and setting forth such other information as is required by the regulations in this subpart and by the instructions relating to the return.

§ 31.6413(b) Statutory provisions; special rules applicable to certain employment taxes; overpayments of certain employment taxes.

SEC. 6413. *Special rules applicable to certain employment taxes.* * * *

(b) *Overpayments of certain employment taxes.* If more than the correct amount of tax imposed by section 3101, 3111, 3201, 3221, or 3402 is paid or deducted with respect to any payment of remuneration and the overpayment cannot be adjusted under subsection (a) of this section, the amount of the overpayment shall be refunded in such manner and at such times (subject to the statute of limitations properly applicable thereto) as the Secretary or his delegate may by regulations prescribe.

§ 31.6413(b)-1 Overpayments of certain employment taxes.

For provisions relating to the adjustment of overpayments of tax imposed by section 3101, 3111, 3201, 3221, or 3402, see § 31.6413(a)-2. For provisions relating to refunds of tax imposed by section 3101, 3111, 3201, or 3221, see §§ 31.6402(a)-1 and 31.6402(a)-2. For provisions relating to refunds of tax imposed by section 3402, see §§ 31.6402(a)-1 and 31.6414-1.

§ 31.6413(c) Statutory provisions; special rules applicable to certain employment taxes; special refunds.

SEC. 6413. *Special rules applicable to certain employment taxes.* * * *

(c) *Special refunds*—(1) *In general.* If by reason of an employee receiving wages from more than one employer during a calendar year after the calendar year 1950 and prior to the calendar year 1955, the wages received by him during such year exceed $3,600, the employee shall be entitled (subject to the provisions of section 31(b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 1400 of the Internal Revenue Code of 1939 and deducted from the employee's wages (whether or not paid to the Secretary or his delegate), which exceeds the tax with respect to the first $3,600 of such wages received; or if by reason of an employee receiving wages from more than one employer (A) during any calendar year after the calendar year 1954 and prior to the calendar year 1959, the wages received by him during such year exceed $4,200, or (B) during any calendar year after the calendar year 1958, the wages received by him during such year exceed $4,800, the employee shall be entitled (subject to the provisions of section 31(b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 3101 and deducted from the employee's wages (whether or not paid to the Secretary or his delegate), which exceeds the tax with respect to the first $4,200 of such wages received in such calendar year after 1954 and before 1959, or which exceeds the tax with respect to the first $4,800 of such wages received in such calendar year after 1958.

(2) *Applicability in case of Federal and State employees and employees of certain foreign corporations*—(A) *Federal employees.* In the case of remuneration received from the United States or a wholly-owned instrumentality thereof during any calendar year, each head of a Federal agency or instrumentality who makes a return pursuant to section 3122 and each agent, designated by the head of a Federal agency or instrumentality, who makes a return pursuant to such section shall, for purposes of this subsection, be deemed a separate employer, and the term "wages" includes for purposes of this subsection the amount, not to exceed $3,600 for the calendar year 1951, 1952, 1953, or 1954, $4,200 for the calendar year 1955, 1956, 1957, or 1958, or $4,800 for any calendar year after 1958, determined by each such head or agent as constituting wages paid to an employee.

(B) *State employees.* For purposes of this subsection, in the case of remuneration received during any calendar year, the term "wages" includes such remuneration for services covered by an agreement made pursuant to section 218 of the Social Security Act as would be wages if such services constituted employment; the term "employer" includes a State or any political subdivision thereof, or any instrumentality of any one or more of the foregoing; the term "tax" or "tax imposed by section 3101" includes, in the case of services covered by an agreement made pursuant to section 218 of the Social Security Act, an amount equivalent to the tax which would be imposed by section 3101, if such services constituted employment as defined in section 3121; and the provisions of this subsection shall apply whether or not any amount deducted from the employee's remuneration as a result of an agreement made pursuant to section 218 of the Social Security Act has been paid to the Secretary.

(C) *Employees of certain foreign corporations.* For purposes of paragraph (1) of this subsection, the term "wages" includes such remuneration for services covered by an agreement made pursuant to section 3121(l) as would be wages if such services constituted employment; the term "employer" includes any domestic corporation which has entered into an agreement pursuant to section 3121(l); the term "tax" or "tax imposed by section 3101", includes, in the case of services covered by an agreement entered into pursuant to section 3121(l), an amount equivalent to the tax which would be imposed by section 3101, if such services constituted employment as defined in section 3121; and the provisions of paragraph (1) of this subsection shall apply whether or not any amount deducted from the employee's remuneration as a result of the agreement entered into pursuant to section 3121 (l) has been paid to the Secretary or his delegate.

[Sec. 6413(c) as amended by sec. 202(a)(1), Social Security Amendments 1954 (68 Stat. 1089); sec. 402(d), Social Security Amendments 1958 (72 Stat. 1043)]

§ 31.6413(c)-1 Special refunds.

(a) *Who may make claims*—(1) *In general.* (i) If, during any calendar year after 1954 and before 1959, an employee receives wages, as defined in section 3121(a), in excess of $4,200 from two or more employers, or if during any calendar year after 1958, an employee receives wages, as defined in section 3121(a), in excess of $4,800 from two or more employers, the employee shall be entitled to a special refund of the amount, if any, by which the employee tax imposed by section 3101 with respect to such wages and deducted therefrom (whether or not paid to the district director) exceeds the employee tax with respect to the first $4,200 or $4,800, whichever is appropriate, of such wages. If the employee is required to file an income tax return for such calendar year (or for his last taxable year beginning in such calendar year) he may obtain the benefit of the special refund only by claiming credit as provided in § 1.31-2 of this chapter (Income Tax Regulations).

(ii) The application of this subparagraph may be illustrated by the following examples:

Example (1). Employee A in the calendar year 1959 receives taxable wages in the amount of $3,000 from each of his employers, B, C, and D, for services performed during such year (or at any time after 1936), or a total of $9,000. Employee tax (computed at 2½ percent, the employee tax rate in effect in 1959) is deducted from A's wages in the amount of $75 by B and $75 by C, or a total of $150. Employer D pays employee tax in the amount of $75 to the district director without deducting such tax from A's wages. The employee tax with respect to the first $4,800 of such wages is $120. A is entitled to a special refund of $30 ($150 minus $120). The $3,000 of wages received from employer D and the $75 of employee tax paid with respect thereto have no bearing in computing A's special refund since such tax was not deducted from his wages.

Example (2). Employee E in the calendar year 1959 performs services for employers F and G, for which E is entitled to wages of $4,800 from each employer, or a total of $9,600. On account of such services, E in 1958 received an advance payment of $600 of wages from F; and in 1959, receives wages in the amount of $4,200 from F and $4,800 from G. Employee tax was deducted as follows: In 1958, $13.50 ($600×2¼%, the employee tax rate in effect in 1958) by employer F; and in 1959, $105 ($4,200×2½%, the employee tax rate in effect in 1959) by employer F, and $120 ($4,800×2½%) by employer G. Thus, E in the calendar year 1959 received $9,000 in wages, from which $225 of employee tax was deducted. The amount of employee tax with respect to the first $4,800 of such wages received in 1959 is $120. E is entitled to a special refund of $105 ($225 minus $120). The $600 advance of wages received in 1958 from F, and the $13.50 of employee tax with respect thereto, have no bearing in computing E's special refund for 1959, because the wages were not received in 1959. Such amounts could not form the basis for a special refund unless E during 1958 received from F and at least one more employer wages totaling more than $4,200.

(2) *Federal employees.* For purposes of special refunds of employee tax, each head of a Federal agency or of a wholly owned instrumentality of the United States who makes a return pursuant to section 3122 (and each agent designated by a head of a Federal agency or instrumentality who makes a return pursuant to such section) is considered a separate employer. For such purposes, the term "wages" includes the amount which each such head (or agent) determines to constitute wages paid an employee, but not in excess of $4,200 paid in any calendar year after 1954 and before 1959, or $4,800 paid in any calendar year after 1958. For example, if wages received by an employee during any calendar year after 1958 are reportable by two or more agents of one or more Federal agencies and the amount of such wages is in excess of $4,800, the employee shall be entitled to a special refund of the amount, if any, by which the employee tax imposed with respect to such wages and deducted therefrom exceeds the employee tax with respect to the first $4,800 of such wages. Moreover, if an employee receives wages during any calendar year from an agency or wholly-owned instrumentality of the United States and from one or more other employers, either private or governmental, the total amount of such wages shall be taken into account for purposes of the special refund provisions.

(3) *State employees.* For purposes of special refunds of employee tax, the term "wages" includes such remuneration for services covered by an agreement made pursuant to section 218 of the Social Security Act, relating to voluntary agreements for coverage of employees of State and local governments, as would be wages if such services constituted employment (see § 31.3121(a)-1 of Subpart B of the regulations in this part, relating to wages); the term "employer" includes a State or any political subdivision thereof, or any instrumentality of any one or more of the foregoing; and the term "tax" or "tax imposed by section 3101" includes an amount equivalent to the employee tax which would be imposed by section 3101 if such services constituted employment. The provisions of subparagraph (1) of this paragraph are applicable whether or not any amount deducted from an employee's remuneration as a result of an agreement made pursuant to section 218 of the Social Security Act has been paid pursuant to such agreement. Thus, the special refund provisions are applicable to amounts equivalent to employee tax deducted from employees' remuneration by States, political subdivisions, or instrumentalities by reason of agreements made under section 218 of the Social Security Act. Moreover, if during any calendar year an employee receives remuneration for services covered by such an agreement and during the same calendar year receives wages from one or more other employers, either private or governmental, the total amount of such remuneration and wages shall be taken into account for purposes of the special refund provisions.

(4) *Employees of certain foreign corporations.* For purposes of special refunds of employee tax, the term "wages" includes such remuneration for services covered by an agreement made pursuant to section 3121(l), relating to agreements for coverage of employees of certain foreign corporations, as would be wages if such services constituted employment (see § 31.3121(a)-1 of Subpart B of the regulations in this part, relating to wages); the term "employer" includes any domestic corporation which has entered into an agreement pursuant to section 3121(l); and the term "tax" or "tax imposed by section 3101" includes, in the case of services covered by an agreement entered into pursuant to section 3121(l), an amount equivalent to the employee tax which would be imposed by section 3101 if such services constituted employment. The provisions of subparagraph (1) of this paragraph are applicable whether or not any amount deducted from the employee's remuneration by reason of such agreement has been paid to the district director. Thus, the special refund provisions are applicable to amounts equivalent to employee tax deducted from employees' remuneration by reason of agreements made under section 3121(l). A domestic corporation which enters into an agreement pursuant to section 3121(l) shall, for purposes of this paragraph, be considered an employer in its capacity as a party to such agreement separate and distinct from its identity as an employer employing individuals on its own account (see section 3121(l)(9)). If during any calendar year an employee receives remuneration for services covered by such an agreement and during the same calendar year receives wages for services in employment, the total amount of such remuneration and wages shall be taken into account for purposes of the special refund provisions. For provisions relating to agreements entered into under section 3121(l), see the regulations in Part 36 of this chapter (Regulations on Contract Coverage of Employees of Foreign Subsidiaries).

(b) *Claims for special refund*—(1) *In general.* An employee who is entitled to a special refund under section 6413(c) may claim such refund under the provisions of this section only if the employee is not entitled to claim the amount thereof as a credit against income tax as provided in § 1.31-2 of this chapter (Income Tax Regulations). Each claim under this section shall be made with respect to wages received within one calendar year (regardless of the year or years after 1936 during which the services were performed for which such wages are received), and shall be filed after the close of such year.

(2) *Form of claim.* Each claim for special refund under this section shall be made on Form 843, in accordance with the regulations in this subpart and the instructions relating to such form. The claim shall be filed with the district director for the internal revenue district in which the employee resides or, if the employee does not reside in any internal revenue district, with the District Director at Baltimore, Maryland. However, in the case of an employee who does not reside in any internal revenue district and who is outside the United States, the claim shall be filed with the Director, International Operations Division, United States Internal Revenue Service, Washington 25, D.C., unless the employee resides in Puerto Rico or the Virgin Islands, in which case the claim shall be

filed with the office of the Director, International Operations Division, United States Internal Revenue Service, Santurce, Puerto Rico. The claim shall include the employee's account number and the following information with respect to each employer from whom he received wages during the calendar year: (i) The name and address of such employer, (ii) the amount of wages received during the calendar year to which the claim relates, and (iii) the amount of employee tax collected by the employer from the employee with respect to such wages. Other information may be required but should be submitted only upon request.

(3) *Period of limitation.* For the period of limitation upon special refund of employee tax imposed by section 3101, see § 301.6511(a)-1 of this chapter (Regulations on Procedure and Administration).

§ 31.6413(d) Statutory provisions; special rules applicable to certain employment taxes; refund or credit of Federal unemployment tax.

SEC. 6413. *Special rules applicable to certain employment taxes.* * * *

(d) *Refund or credit of Federal unemployment tax.* Any credit allowable under section 3302, to the extent not previously allowed, shall be considered an overpayment, but no interest shall be allowed or paid with respect to such overpayment.

§ 31.6414 Statutory provisions; income tax withheld.

SEC. 6414. *Income tax withheld.* In the case of an overpayment of tax imposed by chapter 24, * * * refund or credit shall be made to the employer * * * only to the extent that the amount of such overpayment was not deducted and withheld by the employer * * *.

§ 31.6414-1 Credit or refund of income tax withheld from wages.

(a) *In general.* Any employer who pays to the district director more than the correct amount of—

(1) Tax under section 3402 or a corresponding provision of prior law, or

(2) Interest, addition to the tax, additional amount, or penalty with respect to such tax,

may file a claim for refund of the overpayment or may claim credit for such overpayment, in the manner and subject to the conditions stated in this section and § 301.6402-2 of this chapter (Regulations on Procedure and Administration). If credit is claimed pursuant to this section, the amount thereof shall be claimed by entering such amount as a deduction on a return of tax under section 3402 filed by the employer. If credit is taken pursuant to this section, a claim on Form 843 is not required, but the return on which the credit is claimed shall have attached as a part thereof a statement, which shall constitute the claim for credit, setting forth in detail the grounds and facts relied upon in support of the credit, and showing such other information as is required by the regulations in this subpart and by the instructions relating to the return. No refund or credit to the employer shall be allowed under this section for the amount of any overpayment of tax which the employer deducted or withheld from an employee.

(b) *Period of limitation.* For the period of limitation upon credit or refund of taxes imposed by the Internal Revenue Code of 1954, see § 301.6511(a)-1 of this chapter (Regulations on Procedure and Administration). For the period of limitation upon credit or refund of any tax imposed by the Internal Revenue Code of 1939, see the regulations applicable with respect to such tax.

§ 31.6674 Statutory provisions; fraudulent statement or failure to furnish statement to employee.

SEC. 6674. *Fraudulent statement or failure to furnish statement to employee.* In addition to the criminal penalty provided by section 7204, any person required under the provisions of section 6051 to furnish a statement to an employee who willfully furnishes a false or fraudulent statement, or who willfully fails to furnish a statement in the manner, at the time, and showing the information required under section 6051, or regulations prescribed thereunder, shall for each such failure be subject to a penalty under this subchapter of $50, which shall be assessed and collected in the same manner as the tax on employers imposed by section 3111.

§ 31.6674-1 Penalties for fraudulent receipt or failure to furnish receipt.

Any person required to furnish a statement to an employee under the provisions of section 6051 is subject to a civil penalty for willful failure to furnish such statement in the manner, at the time, and showing the information required under such section or § 31.6051-1, or for willfully furnishing a false or fraudulent statement to an employee. The penalty for each such violation is $50, which shall be assessed and collected in the same manner as the tax imposed on employers under the Federal Insurance Contributions Act. See section 7204 for criminal penalty.

§ 31.7805 Statutory provisions; rules and regulations.

SEC. 7805. *Rules and regulations*—(a) *Authorization.* Except where such authority is expressly given by this title to any person other than an officer or employee of the Treasury Department, the Secretary or his delegate shall prescribe all needful rules and regulations for the enforcement of this title, including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.

(b) *Retroactivity of regulations or rulings.* The Secretary or his delegate may prescribe the extent, if any, to which any ruling or regulation, relating to the internal revenue laws, shall be applied without retroactive effect.

(c) *Preparation and distribution of regulations, forms, stamps, and other matters.* The Secretary or his delegate shall prepare and distribute all the instructions, regulations, directions, forms, blanks, stamps, and other matters pertaining to the assessment and collection of internal revenue.

§ 31.7805-1 Promulgation of regulations.

In pursuance of section 7805 of the Internal Revenue Code of 1954, the foregoing regulations are hereby prescribed. (See § 31.0-3 of Subpart A of the regulations in this part relating to the scope of the regulations.)

PAR. 2. The Employment Tax Regulations (26 CFR Part 31) are amended by inserting the following immediately after § 31.6001-5:

§ 31.6001-6 Notice by district director requiring returns, statements, or the keeping of records.

The district director may require any person, by notice served upon him, to make such returns, render such statements, or keep such specific records as will enable the district director to determine whether or not such person is liable for any of the taxes to which the regulations in this part have application.

PAR. 3. Paragraph (c) of § 31.6011(a)-7 of the Employment Tax Regulations (26 CFR Part 31) is amended to read as follows:

§ 31.6011(a)-7 Execution of returns.

* * * * *

(c) *Signing and verification.* For provisions relating to the signing of returns, see § 31.6061-1. For provisions relating to the verifying of returns, see § 31.6065(a)-1.

PAR. 4. Section 31.6051 of the Employment Tax Regulations (26 CFR Part 31) is amended to read as follows:

§ 31.6051 Statutory provisions; receipts for employees.

SEC. 6051. *Receipts for employees*—(a) *Requirement.* Every person required to deduct and withhold from an employee a tax under section 3101 or 3402, or who would have been required to deduct and withhold a tax under section 3402 if the employee had claimed no more than one withholding exemption, shall furnish to each such employee in respect of the remuneration paid by such person to such employee during the calendar year, on or before January 31 of the succeeding year, or, if his employment is terminated before the close of such calendar year, on the day on which the last payment of remuneration is made, a written statement showing the following:

(1) The name of such person,

(2) The name of the employee (and his social security account number if wages as defined in section 3121(a) have been paid),

(3) The total amount of wages as defined in section 3401(a),

(4) The total amount deducted and withheld as tax under section 3402,

(5) The total amount of wages as defined in section 3121(a), and

(6) The total amount deducted and withheld as tax under section 3101.

In the case of compensation paid for service as a member of a uniformed service, the statement shall show, in lieu of the amount required to be shown by paragraph (5), the total amount of wages as defined in section 3121(a), computed in accordance with such section and section 3121(i)(2).

(b) *Special rule as to compensation of members of Armed Forces.* In the case of compensation paid for service as a member of the Armed Forces, the statement required by subsection (a) shall be furnished if any tax was withheld during the calendar year under section 3402, or if any of the compensation paid during such year is includible in gross income under chapter 1, or if during the calendar year any amount was required to be withheld as tax under section 3101. In lieu of the amount required to be shown by paragraph (3) of subsection (a), such statement shall show as wages paid during the calendar year the amount of such compensation paid during the calendar year which is not excluded from gross income under chapter 1 (whether or not such compensation constituted wages as defined in section 3401(a)).

(c) *Additional requirements.* The statements required to be furnished pursuant to this section in respect of any remuneration shall be furnished at such other times, shall contain such other information, and shall be in such form as the Secretary or his delegate may by regulations prescribe.

(d) *Statements to constitute information returns.* A duplicate of any statement made pursuant to this section and in accordance with regulations prescribed by the Secretary or his delegate shall, when required by such regulations, be filed with the Secretary or his delegate.

[Sec. 6051 as amended by sec. 412, Servicemen's and Veterans' Survivor Benefits Act (70 Stat. 879)]

(Sec. 7805, I.R.C. 1954; 68A Stat. 917; 26 U.S.C. 7805)

[F.R. Doc. 60-5785; Filed, June 22, 1960; 8:51 a.m.]

SUBCHAPTER E—ALCOHOL, TOBACCO, AND OTHER EXCISE TAXES

PART 182—INDUSTRIAL ALCOHOL

PART 201—DISTILLED SPIRITS PLANTS

PART 216—DENATURATION OF RUM

PART 220—PRODUCTION OF DISTILLED SPIRITS

PART 221—PRODUCTION OF BRANDY

PART 225—WAREHOUSING OF DISTILLED SPIRITS

PART 240—WINE

PART 245—BEER

PART 253—REMOVALS OF ALCOHOLIC LIQUORS, TOBACCO PRODUCTS, AND OTHER DOMESTIC ARTICLES TO FOREIGN-TRADE ZONES

Partial Supersedure of Parts

CROSS REFERENCE: For partial supersedure of regulations in these parts, see preamble to Part 252 of this chapter, *infra*.

PART 252—EXPORTATION OF LIQUORS

On April 7, 1960, a notice of proposed rule making proposing the revision and reissuance of regulations in 26 CFR Part 252, with respect to the exportation of liquors, was published in the FEDERAL REGISTER (25 F.R. 2973).

After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the regulations as so published are hereby adopted subject to the changes set forth below:

1. Section 252.99 is changed by striking, in the first sentence, the words "to not less than 90 degrees".

2. Section 252.103 is changed by striking "; and" at the end of paragraph (c), and by inserting in lieu thereof ": *Provided*, That the markings required by this paragraph need not be placed on containers removed for transfer to a contiguous manufacturing bonded warehouse, where the assistant regional commissioner finds that their omission will not constitute a jeopardy to the revenue; and".

3. Section 252.123 is changed by striking "; and" at the end of paragraph (c), and by inserting in lieu thereof ": *Provided*, That the markings required by this paragraph need not be placed on containers removed for transfer to a contiguous manufacturing bonded warehouse, where the assistant regional commissioner finds that their omission will not constitute a jeopardy to the revenue; and".

4. Paragraph (a) of § 252.250 is changed by striking, in subparagraph (4), "numbers of the packages or cases, and", and inserting in lieu thereof "number of the Form 206, 1582, or 1582-A, as the case may be, and".

Because these regulations are a part of an integrated recodification program under Chapter 51, I.R.C., and in order that the entire program may be effective on July 1, 1960, it is found that it is contrary to the public interest to issue these regulations subject to the effective date limitation of section 4(c) of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003). Accordingly, these regulations shall become effective on July 1, 1960.

[SEAL] CHARLES I. FOX,
Acting Commissioner of Internal Revenue.
RALPH KELLY,
Commissioner of Customs.

Approved: June 17, 1960.

FRED C. SCRIBNER, Jr.,
Acting Secretary of the Treasury.

Preamble. 1. The regulations in this part shall, on and after July 1, 1960, supersede the 1955 edition of 26 CFR Part 252 (20 F.R. 4003), as amended, and the provisions of 26 CFR Part 253 (21 F.R. 3268), as amended, except as Part 253 relates to tobacco products and cigarette papers and tubes. These regulations also supersede all provisions of prior regulations in 26 CFR Parts 182 (19 F.R. 9438), 201 (24 F.R. 4791), 216 (20 F.R. 2366), 220 (19 F.R. 9685), 221 (19 F.R. 9577), 225 (19 F.R. 9737), 240 (19 F.R. 9631), and 245 (21 F.R. 8625), as amended, which pertain to the matters covered in this part.

2. These regulations shall not affect any act done or any liability or right accruing or accrued, or any suit or proceeding had or commenced before the effective date of these regulations.

AUTHORITY: §§ 252.1 to 252.335 issued under section 7805, I.R.C., 68A Stat. 917; 26 U.S.C. 7805. Statutory provisions interpreted or implied are cited to text in parentheses.

Subpart A—Scope

§ 252.1 General.

The regulations in this part relate to exportation, lading for use on vessels and aircraft, and the transfer to a foreign-trade zone or a manufacturing bonded warehouse, class six, of distilled spirits (including specially denatured spirits), beer, and wine, whether without payment of tax, free of tax, or with benefit of drawback, and includes requirements with respect to removal, shipment, lading, deposit, evidence of exportation, losses, claims, and bonds.

§ 252.2 Forms prescribed.

The Director is authorized to prescribe all internal revenue forms required by this part. All of the information called for in each form shall be furnished, as indicated by the headings on the form and the instructions thereon or issued in respect thereto, and as required by this part.

(72 Stat. 1361; 26 U.S.C. 5207)

§ 252.3 Related regulations.

Procedural and substantive instructions dealing with operations which are related to the regulations in this part will be found in the regulations listed below:

19 CFR Chapter I—Customs Regulations

26 CFR Part 175—Traffic in Containers of Distilled Spirits

26 CFR Part 186—Gauging Manual

26 CFR Part 194—Liquor Dealers

26 CFR Part 201—Distilled Spirits Plants

26 CFR Part 211—Distribution and Use of Denatured Alcohol and Rum

26 CFR Part 212—Formulas for Denatured Alcohol and Rum

26 CFR Part 231—Taxpaid Wine Bottling Houses

26 CFR Part 240—Wine

26 CFR Part 245—Beer

27 CFR Part 1—Basic Permit Requirements Under the Federal Alcohol Administration Act

27 CFR Part 4—Wine Labeling and Advertising

31 CFR Part 225—Acceptance of Bonds, Notes, or Other Obligations Issued or Guaranteed by the United States as Security in Lieu of Surety or Sureties on Penal Bonds

Subpart B—Definitions

§ 252.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

Assistant regional commissioner. An assistant regional commissioner (alcohol and tobacco tax) who is responsible to, and functions under the direction and supervision of, a regional commissioner.

Beer. Beer, ale, porter, stout, and other similar fermented beverages (including sake or similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor.

Bonded premises—distilled spirits plant. The premises of a distilled spirits plant, or part thereof, on which operations relating to the production, storage, denaturation, or bottling of spirits prior to payment or determination of tax are authorized to be conducted.

Bonded wine cellar. Premises established under Part 240 of this chapter for the production, blending, cellar treatment, storage, bottling, packaging, or repackaging of untaxpaid wine.

Brewer. A proprietor of a brewery.

Brewery. Premises established under Part 245 of this chapter for the production of beer.

CFR. The Code of Federal Regulations.

Collector of customs. The person having charge of a customs collection district, the assistant collector of customs, deputy collector of customs, and any person authorized by law or by regulations approved by the Secretary to perform the duties of a collector of customs.

Commissioner. The Commissioner of Internal Revenue.

Container. Any receptacle, vessel, or any form of package, bottle, can, tank, or pipeline used, or capable of being used, for holding, storing, transferring, or conveying liquors.

Customs officer. Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or agent or other person authorized by law or by the Secretary, or appointed in writing by a collector of customs, to perform the duties of an officer of the Customs Service.

(19 U.S.C. 1401(1))

Director. The Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington, D.C.

Distilled spirits or spirits. That substance known as ethyl alcohol, ethanol, or spirits of wine, and all dilutions and mixtures thereof, from whatever source or by whatever process produced, including whisky, brandy, rum, gin, vodka, and products of rectification (other than products classed as wine), but not denatured spirits.

Distilled spirits plant. An establishment qualified under the provisions of Part 201 of this chapter for the production, bonded storage, or bottling of spirits, or for rectification, or for any combination of such operations.

District director. A district director of internal revenue.

Executed under penalties of perjury. Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return, claim, form, or other document or, where no form of declaration is prescribed, with the declaration:

I declare under the penalties of perjury that this ---------- (insert type of document such as statement, report, certificate, application, claim, or other document), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete.

Exportation. A severance of goods from the mass of things belonging to the United States with the intention of uniting them to the mass of things belonging to some foreign country. The export character of any shipment shall be determined by the intention with which it is made, and it assumes an export character only when destined for use in a foreign country. For the purposes of this part, shipments to Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Panama Canal Zone shall be treated as exportations. Shipments to Kingman's Reef, the Midway Islands, or Wake Island are not exportations within the meaning of this part.

(68A Stat. 908; 26 U.S.C. 7653)

Foreign-trade zone or zone. A foreign-trade zone established and operated pursuant to the Act of June 18, 1934, as amended.

(48 Stat. 998–1003, as amended; 19 U.S.C. 81a–81u)

Gallon or wine gallon. The liquid measure equivalent to the volume of 231 cubic inches.

Internal revenue officer. An officer or employee of the Internal Revenue Service duly authorized to perform any function relating to the administration or enforcement of this chapter.

I.R.C. The Internal Revenue Code of 1954, as amended.

Liquor. Distilled spirits, wines, and/or beer.

Manufacturing bonded warehouse. A manufacturing bonded warehouse, class six, established under the provisions of Customs Regulations (19 CFR Ch. I).

Package. Any cask, keg, barrel, drum, or similar portable container.

Person. An individual, a trust, an estate, a partnership, an association, a company, or a corporation.

Proof. The ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percent of ethyl alcohol by volume.

Proof gallon. A gallon at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity, or the alcoholic equivalent thereof.

Proprietor. The person who operates the brewery, distilled spirits plant, bonded wine cellar, taxpaid wine bottling house, manufacturing bonded warehouse, or export storage, as the case may be, referred to in this part.

Rectifier. A proprietor of a distilled spirits plant qualified under Part 201 of this chapter to engage in the business of rectifying spirits or wines on which the tax has been paid or determined.

Region. An internal revenue region.

Regional commissioner. A regional commissioner of internal revenue.

Secretary. The Secretary of the Treasury.

Specially denatured spirits. Alcohol or rum, as defined in Part 212 of this chapter, denatured pursuant to the formulas authorized in Part 212 for specially denatured alcohol or rum.

Tank truck. A tank-equipped semi-trailer, trailer, or truck.

Tax. The distilled spirits tax, the rectification tax (including the taxes imposed by sections 5022 and 5023, I.R.C.), the beer tax, or the applicable wine tax, as the case may be, imposed by chapter 51, I.R.C.

Tax gallon. The unit of measure of spirits for the imposition of tax under section 5001, I.R.C. When spirits are 100 degrees of proof or more when withdrawn from bond, the tax is determined on a proof gallon basis. When spirits are less than 100 degrees of proof when withdrawn from bond, the tax is determined on a wine gallon basis.

U.S.C. The United States Code.

Wine. All kinds and types of wine having not in excess of 24 percent of alcohol by volume.

Zone operator. The person to which the privilege of establishing, operating, and maintaining a foreign-trade zone has been granted by the Foreign-Trade Zones Board created by the Act of June 18, 1934, as amended.

(48 Stat. 998–1003, as amended; 19 U.S.C. 81a–81u)

Subpart C—Miscellaneous Provisions

WITHDRAWAL OR LADING FOR USE ON CERTAIN VESSELS AND AIRCRAFT

§ 252.21 General.

Liquors may be withdrawn without payment of tax for lading, and liquors on which the tax has been paid or determined may be laden with benefit of drawback of tax, subject to this part, for use on vessels and aircraft as follows:

(a) Vessels or aircraft operated by the United States;

(b) Vessels of the United States employed in the fisheries as provided in § 252.22 or in the whaling business, or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions;

(c) Aircraft registered in the United States and actually engaged in foreign trade or trade between the United States and any of its possessions;

(d) Vessels of war of any foreign nation;

(e) Foreign vessels employed in the fisheries as provided in § 252.22 or in the whaling business, or actually engaged in foreign trade or trade between the United States and any of its possessions, where such trade by foreign vessels is permitted; or

(f) Aircraft registered in any foreign country and actually engaged in foreign trade or trade between the United States and any of its possessions, where trade by foreign aircraft is permitted, and where the Secretary of the Treasury shall have been advised by the Secretary of Commerce that he has found such foreign country allows, or will allow, substantially reciprocal privileges in respect to aircraft registered in the United States.

(46 Stat. 690, as amended; 72 Stat. 1334, 1335, 1336, 1362, 1380; 19 U.S.C. 1309, 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

§ 252.22 Vessels employed in the fisheries.

Liquors may be withdrawn or laden under the provisions of paragraphs (b) and (e) of § 252.21 relating to vessels employed in the fisheries, only for use on vessels of the United States documented to engage in the fisheries and foreign fishing vessels of 5 net tons or over if the collector of customs is satisfied by reason of the quantity requested in the light of (a) whether the vessel is employed in substantially continuous fishing activities, and (b) the vessel's complement, that none of the liquors to be withdrawn or laden are intended to be removed from the vessel in, or otherwise returned to, the United States. Such withdrawal or lading shall be conditioned upon compliance with the applicable provisions of this part. Lading of such liquors for use on such vessels shall be subject to approval by the collector of customs of a special written application by the withdrawer

NOTE: As used in this section, the word "withdrawer" shall mean the person executing the application or notice, Form 206, 1582, 1582–A, 1582–B, or 1689, as the case may be.

or the vessel's master on customs Form 5125 (in duplicate) and a statement by the withdrawer in his application or notice on the required Form 206, 1582, 1582–A, 1582–B, or 1689, as the case may be, that the liquors are to be laden for use as supplies on a vessel employed in the fisheries. The original application on customs Form 5125, after approval, shall be stamped with the serial number of the Form 206, 1582, 1582–A, 1582–B, or 1689, as the case may be, and the date thereof, and shall be returned by the collector of customs to the withdrawer or vessel's master for use as prescribed below. Approval of each such application shall be subject to the condition that the original shall be presented thereafter by the withdrawer or the vessel's master to the collector of customs within 24 hours (excluding Saturday, Sunday, and holidays) after each subsequent arrival of the vessel at a customs port or station and that an accounting shall be made at the time of such presentation of the disposition of the liquors until the collector or customs is satisfied that they have been consumed on board, or landed under customs supervision, and takes up the authorization. The approval of customs Form 5125 shall be subject to the further condition that any such liquors remaining on board while the vessel is in port shall be safeguarded in the manner and to such extent as the collector of the port or place of arrival shall deem necessary. When such liquors have been accounted for to the satisfaction of the collector of customs, he shall execute his certificate of lading and use on both copies of the Form 206, 1582, 1582–A, 1582–B, or 1689, as the case may be, and forward the original of the form to the assistant regional commissioner designated thereon. In the event of a failure on the part of the withdrawer or the master of the vessel to comply with the conditions of this section or upon receipt of evidence that the liquors were not lawfully used as supplies on the vessel, the collector of customs shall advise the assistant regional commissioner of all the facts in the case for determination of any liability incurred. In the case of liquors withdrawn without payment of tax, assessment of tax liability found to have been incurred shall be made against the principal on the bond. In the case of taxpaid or tax determined liquors, the assistant regional commissioner shall determine as to whether to make demand upon the principal and the surety on the bond or to disallow the claim as the case may be.

(46 Stat. 690, as amended, 72 Stat. 1334, 1335, 1336, 1362, 1380; 19 U.S.C. 1309, 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

§ 252.23 Reciprocating foreign countries.

Assistant regional commissioners may approve applications relating to the withdrawal or lading of liquors for use on aircraft of those foreign countries which will allow, to aircraft registered in the United States and engaged in foreign trade, privileges substantially reciprocal to the privileges allowed herein to aircraft of a foreign country. Where application is made to withdraw or lade liquors for use on aircraft of other countries, which it is claimed reciprocate similar privileges to aircraft of the United States, the applicant must first establish the right of such withdrawal or lading. In appropriate cases, the applicant should request the Secretary of Commerce to find and advise the Secretary of the Treasury that such foreign country or countries allow, or will allow, substantially reciprocal privileges to aircraft of the United States.

(46 Stat. 690, as amended; 19 U.S.C. 1309)

MANUFACTURING BONDED WAREHOUSES

§ 252.25 General.

Any manufacturer who manufactures the products designated in section 5522, I.R.C., at a duly constituted manufacturing bonded warehouse, established in accordance with law and the regulations in 19 CFR Ch. I, may withdraw distilled spirits or wines from any distilled spirits plant or bonded wine cellar, as the case may be, without payment of tax, for use in the manufacture of such products for export, or for rectification and export, or shipment in bond to Puerto Rico. The proprietor of the manufacturing bonded warehouse shall furnish bond in accordance with the provisions of §§ 252.63 and 252.64.

(46 Stat. 691, as amended, 72 Stat. 1362, 1380, 1392, 1393, 1394; 19 U.S.C. 1311, 26 U.S.C. 5214, 5362, 5521, 5522, 5523)

FOREIGN-TRADE ZONES

§ 252.30 Export status.

Liquors may be transferred to a foreign-trade zone for the sole purpose of exportation, or storage pending exportation. Liquors of domestic manufacture deposited in a foreign-trade zone under this part shall be considered to be exported for the purpose of the statutes and bonds exacted for the payment of drawback, refund, or exemption from liability for internal revenue taxes and for the purposes of the internal revenue laws generally and the regulations thereunder. Export status is not acquired until application on Zone Form D for admission of the liquors into the zone has been approved by the collector of customs pursuant to the appropriate provisions of 19 CFR Chapter I, and the required certification of deposit of the liquors in the zone has been made on the Internal Revenue Service form prescribed in this part. For the purpose of section 309 of the Tariff Act of 1930, as amended by section 11 of the Customs Simplification Act of 1953 (Pub. Law 243, 83d Congress), liquors removed to foreign-trade zones under the provisions of this part may be removed, pursuant to the provisions of 19 CFR Ch. I, for use as supplies on vessels and aircraft.

(48 Stat. 999, as amended; 19 U.S.C. 81c)

VOLUNTARY DESTRUCTION OF LIQUORS AFTER RECEIPT IN A FOREIGN-TRADE ZONE

§ 252.35 General.

Liquors may not, under the law, be transferred to a foreign-trade zone for the purpose of destruction. However, liquors transported to and deposited in a foreign-trade zone for exportation or for storage pending exportation may be destroyed under the supervision of the collector of customs, where it is shown to the satisfaction of the assistant regional commissioner of the region in which the zone is located that the liquors, after deposit in a zone, have become unmerchantable or unfit for export.

(48 Stat. 999, as amended; 19 U.S.C. 81c)

§ 252.36 Application.

Application, addressed to the assistant regional commissioner of the region in which the zone is located and filed as hereinafter provided, for authority to destroy domestic distilled spirits (including alcohol), wines, or beer on storage in a foreign-trade zone shall be made by the exporter on letter-size paper, in duplicate, showing the name and address of the claimant and setting forth the following information:

(a) The kind and quantity of the liquor, the serial numbers, if any, of the containers thereof, and identification of the zone in which the liquor is stored;

(b) The name and address of the producer of the liquor, and the name, registry number, if any, and location of the plant, warehouse or other establishment from which such liquors were withdrawn for transportation to and deposit in the foreign-trade zone;

(c) The date, form, and serial number of the Form 206, 1582, 1582-A, 1582-B, 1629, or 1689, as the case may be; and, in the case of liquors on which drawback of internal revenue tax has been allowed, the claim number assigned thereto by the assistant regional commissioner;

(d) Whether the liquor has become unmerchantable or unfit for export after deposit in the zone, together with all the known facts relating thereto; and

(e) Whether the unmerchantable or unfit liquor is covered by valid insurance in excess of the market value thereof, exclusive of tax. If the liquor is insured, the application shall show its market value, the amount and date of each and every policy of insurance, the name and location of the company by which each and every policy was issued, the name and address of the bona fide owner of the liquor, and to the best of the affiant's knowledge, whether any other person or party is indemnified against the loss of the liquor by reason of its spoilage or destruction.

Such application shall be signed by the exporter or his authorized agent and be executed under the penalties of perjury. The assistant regional commissioner may require any further evidence as is deemed necessary. The operator of the foreign-trade zone shall countersign the application or otherwise indicate thereon his knowledge of and concurrence in the application to destroy the liquor. The exporter shall file the application with the collector of customs in whose district the foreign-trade zone is located; at the same time the exporter shall likewise file Zone Form E in accordance with Customs Regulations (19 CFR Ch. I). On receipt of the application the collector of customs shall determine the completeness thereof and shall report any facts relating to the condition of the liquor of which he may have knowledge. The original application shall be forwarded to the assistant regional commissioner and the collector of customs shall retain the copy for his files.

§ 252.37 Action by assistant regional commissioner.

The assistant regional commissioner shall carefully examine the application to see that all the required information has been furnished and shall cause such investigation to be made or require such additional evidence, including samples, to be submitted as he may deem necessary. If the assistant regional commissioner finds that the domestic distilled spirits (including alcohol), wines, or beer were transported to and deposited in a foreign-trade zone in good faith for the purpose of exportation or storage pending exportation, and that such liquors, after deposit in the zone, have become unmerchantable or unfit for export, he may approve the application and authorize the destruction of the liquor described therein under the supervision of the collector of customs. On approval or disapproval of the application, the assistant regional commissioner shall advise the collector of customs of his action.

§ 252.38 Action by collector of customs.

On receipt of the assistant regional commissioner's authorization for destruction of the liquor, or his disapproval of the application for destruction, the collector of customs shall act upon the exporter's application on Zone Form E and dispose of it in accordance with the applicable provisions of Customs Regulations (19 CFR Ch. I). Where the assistant regional commissioner has authorized the destruction of the liquor, such destruction shall be accomplished under customs supervision.

EVIDENCE OF EXPORTATION AND USE

§ 252.40 Evidence of exportation.

The exportation of any shipment may be evidenced by:

(a) A copy of the export bill of lading (§ 252.250); or

(b) A copy of the railway express receipt (§ 252.251); or

(c) A copy of the air express receipt (§ 252.252); or

(d) A copy of the through bill of lading where exportation is to a contiguous foreign country (§ 252.250); or

(e) A certificate by the export carrier, as provided for in § 252.253.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

§ 252.41 Evidence of lading for use on vessels or aircraft.

The lading of distilled spirits, wines, or beer for use on vessels or aircraft may be evidenced by submission of a receipt procured under the provisions of § 252.268.

(46 Stat. 690, as amended, 72 Stat. 1335, 1362, 1380; 19 U.S.C. 1309, 26 U.S.C. 5055, 5214, 5362)

§ 252.42 Evidence of deposit.

The deposit of distilled spirits and wines in a foreign-trade zone with benefit of drawback may be evidenced by a copy of the transportation bill of lading obtained under the provisions of § 252.250.

(48 Stat. 999, as amended; 19 U.S.C. 81c)

RETENTION OF RECORDS

§ 252.45 Retention of records.

File copies of forms required by this part to be retained by any proprietor or claimant, and all records, documents, or copies of records and documents supporting such forms, shall be preserved by such proprietor or claimant for a period of not less than two years, and during such period shall be available, during business hours, for inspection and the taking of abstracts therefrom by internal revenue officers.

(72 Stat. 1342, 1361, 1381, 1390, 1395; 26 U.S.C. 5114, 5207, 5367, 5415, 5555)

PENALTIES OF PERJURY

§ 252.48 Execution under penalties of perjury.

When a return, form, or other document called for under this part is required by this part or in the instructions on or with the return, form, or other document to be executed under penalties of perjury, it shall be so executed, as defined in Subpart B of this part, and shall be signed by the proprietor, or other duly authorized person.

(68A Stat. 749; 26 U.S.C. 6065)

Subpart D—Bonds and Consents of Surety

§ 252.51 General.

Every person required by this part to file a bond or consent of surety shall prepare and execute it on the prescribed form and file it with the assistant regional commissioner of the region in which is located the premises from which the withdrawal or removal is made or, in the case of taxpaid or taxdetermined spirits in packages filled in internal revenue bond, with the assistant regional commissioner for the region in which the exporter is located, in accordance with the procedures of this part: *Provided*, That the procedures in Parts 201, 240, or 245 of this chapter shall govern bonds given on Forms 2601, 700, or 1566, respectively.

§ 252.52 Corporate surety.

Surety bonds required by this part may be given only with corporate sureties holding certificates of authority from, and subject to the limitations prescribed by, the Secretary as set forth in Treasury Department Circular 570. Powers of attorney and other evidence of appointment of agents and officers to execute bonds or to consent to changes in the terms of bonds on behalf of corporate sureties are required to be filed with, and passed on by, the Commissioner of Accounts, Surety Bonds Branch, Treasury Department.

(61 Stat. 648; 26 U.S.C. 6, 7)

§ 252.53 Deposit of securities in lieu of corporate surety.

In lieu of corporate surety, the principal may pledge and deposit, as surety for his bond, securities which are transferable and are guaranteed as to both interest and principal by the United

States, in accordance with the provisions of 31 CFR Part 225.

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

§ 252.54 **Consents of surety.**

Consents of surety to changes in the terms of bonds shall be executed on Form 1533 by the principal and by the surety with the same formality and proof of authority as is required for the execution of bonds.

§ 252.55 **Authority to approve bonds and consents of surety.**

Assistant regional commissioners are authorized to approve all bonds and consents of surety required by this part.

§ 252.56 **Disapproval of bonds or consents of surety.**

The assistant regional commissioner may disapprove any bond prescribed by this part, or any consent of surety submitted in respect thereto, if the principal or any person owning, controlling, or actively participating in the management of the business of the principal shall have been previously convicted, in a court of competent jurisdiction, of:

(a) Any fraudulent noncompliance with any provision of any law of the United States, if such provision related to internal revenue or customs taxation of spirits, wines, or beer, or if such offense shall have been compromised with the person on payment of penalties or otherwise; or

(b) Any felony under a law of any State, Territory, or the District of Columbia, or the United States, prohibiting the manufacture, sale, importation, or transportation of spirits, wine, beer, or other intoxicating liquor.

(72 Stat. 1336, 1352, 1353, 1393, 1394; 26 U.S.C. 5062, 5175, 5177, 5522, 5551)

§ 252.57 **Appeal to Director.**

Where a bond or consent of surety is disapproved by the assistant regional commissioner, the person giving the bond may appeal from such disapproval to the Director, who will hear such appeal. The decision of the Director shall be final.

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

§ 252.58 **Bond, Form 2601.**

(a) *Spirits.* Where spirits are withdrawn without payment of tax, as authorized in § 252.91, from the bonded premises of a distilled spirits plant on application of the proprietor thereof, the bond, Form 2601, given by the proprietor and approved under the provisions of Part 201 of this chapter, shall cover such withdrawals.

(b) *Wine.* Where, under the provisions of Part 201 of this chapter, bond, Form 2601, has been given and approved to cover the operations of a distilled spirits plant and an adjacent bonded wine cellar, such bond shall cover the withdrawal of wine without payment of tax, as authorized in § 252.121, from such bonded wine cellar on application for such withdrawal by the proprietor.

(c) *Specially denatured spirits.* Where specially denatured spirits are withdrawn free of tax, as authorized in § 252.151, from the bonded premises of a distilled spirits plant on application of the proprietor thereof, the proprietor shall file consent of surety Form 1533, extending the terms of his bond, Form 2601, which consent shall be in the following form:

The obligors agree to extend the terms of said bond to cover all liability that may be incurred on all specially denatured spirits withdrawn by the principal for exportation or transfer to a foreign-trade zone, for which satisfactory evidence of exportation, or of deposit in a foreign-trade zone, as required by law and regulations, is not submitted to the assistant regional commissioner.

(72 Stat. 1349, 1352, 1362; 26 U.S.C. 5173, 5175, 5214)

§ 252.59 **Bond, Form 700.**

Where the operations of a bonded wine cellar are covered by bond, Form 700, as provided in Part 240 of this chapter, such bond shall cover the withdrawal of wine without payment of tax, as authorized in § 252.121, from such bonded wine cellar by the proprietor of the bonded wine cellar.

(72 Stat. 1379, 1380; 26 U.S.C. 5354, 5362)

§ 252.60 **Brewer's bond, Form 1566.**

Where beer is removed from a brewery without payment of tax for any of the purposes authorized in § 252.141, the brewer's bond, Form 1566, furnished under the provisions of Part 245 of this chapter shall cover such removals: *Provided,* That before any such removal is made for transfer to and deposit in a foreign-trade zone, a consent of the surety extending the terms of the bond to such removals shall be filed with the assistant regional commissioner unless such removals are specifically included in the terms of the bond.

(48 Stat. 999, as amended, 72 Stat. 1334, 1388; 19 U.S.C. 81c, 26 U.S.C. 5053, 5401)

§ 252.61 **Bond, Form 2734.**

If a specific lot of distilled spirits or wines is to be withdrawn without payment of tax, as authorized in §§ 252.91 (a), (b), or (c) or 252.121 (a), (b), or (c), by a person other than the proprietor of the bonded premises, a specific bond on Form 2734 shall be filed by the exporter with the assistant regional commissioner as provided in § 252.51. The penal sum of such bond shall be not less than the tax prescribed by law on the quantity of spirits or wines to be withdrawn: *Provided,* That the maximum penal sum of such bond shall not exceed $200,000, but in no case shall the penal sum be less than $1,000.

(72 Stat. 1352, 1362, 1380; 26 U.S.C. 5175, 5214, 5362)

§ 252.62 **Bond, Form 2735.**

(a) *General.* If distilled spirits and/or wines are to be withdrawn from time to time without payment of tax, as authorized in §§ 252.91 (a), (b), or (c) and 252.121 (a), (b), or (c), by a person other than the proprietor of the bonded premises, a continuing bond on Form 2735 shall be filed by the exporter with the assistant regional commissioner as provided in § 252.51. The bond shall be executed in a penal sum sufficient to cover the tax at the rates prescribed by law on the maximum quantity of distilled spirits and wines that may remain unaccounted for at any one time: *Provided,* That the maximum penal sum of such bond shall not exceed $200,000, but in no case shall the penal sum be less than $1,000. Distilled spirits and wines withdrawn for exportation, use on vessels or aircraft, or transfer to a foreign-trade zone, shall remain unaccounted for until the evidence of exportation, use, transfer, or loss in transit, as required by this part, has been filed with the assistant regional commissioner. The exporter shall, at the time of executing Form 2735, designate the premises from which the withdrawals are to be made, provided that, as to any one bond on Form 2735, such premises shall be located in the same internal revenue region.

(b) *Apportioning bonds.* Where a bond on Form 2735 is given in less than the maximum penal sum to cover withdrawals from more than one premise, the principal, at the time of execution of the bond, shall, if he intends to withdraw both distilled spirits and wine, apportion the coverage under the bond between distilled spirits and wine. Where distilled spirits are to be withdrawn from more than one premise, the principal shall also, as to distilled spirits withdrawals, at the time of execution, either (1) apportion the coverage under the bond among the several premises, or (2) designate one distilled spirits plant to which all applications for withdrawals of distilled spirits shall be submitted. If the distilled spirits bond coverage is apportioned at the time of execution, the amount designated by the principal for any distilled spirits plant becomes the maximum bond coverage for withdrawals from that plant. The principal may reapportion the bond coverage if changing conditions make such action necessary, provided that consent of surety, Form 1533, is filed with, and approved by, the assistant regional commissioner. Where the principal designates that all applications for withdrawals of distilled spirits under the bond shall be submitted to one plant, all such applications shall be submitted to the internal revenue officer at that plant for approval, who, after giving his approval, will then forward all copies of the application to the proprietor of the distilled spirits plant from which the distilled spirits are to be withdrawn.

(72 Stat. 1352, 1362, 1380; 26 U.S.C. 5175, 5214, 5362)

§ 252.63 **Bond, Form 2736.**

Where the proprietor of a manufacturing bonded warehouse desires to withdraw a specific lot of distilled spirits or wines without payment of tax, as authorized in § 252.25, he shall file with the assistant regional commissioner, as provided in § 252.51, a specific bond, on Form 2736, to cover the transportation of the distilled spirits or wines from the bonded premises from which withdrawn to the manufacturing bonded warehouse. The penal sum of such bond shall be not less than the tax prescribed by law on the quantity of distilled spirits or wines to be withdrawn: *Provided,* That the maximum penal sum of such bond shall not exceed $200,000, but in no case shall the penal sum be less than $1,000.

(72 Stat. 1380, 1393; 26 U.S.C. 5362, 5522)

§ 252.64 **Bond, Form 2737.**

(a) *General.* Where the proprietor of a manufacturing bonded warehouse desires to withdraw distilled spirits and wines from time to time without payment of tax, as authorized in § 252.25, he shall file with the assistant regional commissioner, as provided in § 252.51, a continuing bond on Form 2737. The bond shall be executed in a penal sum sufficient to cover the tax at the rates prescribed by law on the maximum quantity of distilled spirits and wines which may remain unaccounted for at any one time: *Provided,* That the maximum penal sum of such bond shall not exceed $200,000, but in no case shall the penal sum be less than $1,000. Distilled spirits and wines withdrawn for transfer to a manufacturing bonded warehouse shall remain unaccounted for until the evidence of deposit in such warehouse, as required by this part, has been filed with the assistant regional commissioner. The proprietor shall, at the time of executing Form 2737, designate the premises from which the withdrawals are to be made, provided that, as to any one bond on Form 2737, such premises shall be located in the same internal revenue region.

(b) *Apportioning bonds.* Where a bond on Form 2737 is given in less than the maximum penal sum, the procedures set forth in § 252.62(b) in respect of Form 2735, shall be followed in respect of Form 2737.

(72 Stat. 1380, 1393; 26 U.S.C. 5362, 5522)

§ 252.65 **Bond, Form 2738.**

Whenever, under the provisions of this part, the exporter desires drawback of tax on distilled spirits or wines to be exported, laden for use on vessels or aircraft, or transferred to and deposited in a foreign-trade zone, as authorized in §§ 252.171, 252.201, and 252.211, prior to the receipt by the assistant regional commissioner of the certified copy of Form 1582, 1629, or 1582–A, as the case may be, as prescribed by this part, he shall file bond on Form 2738 with the assistant regional commissioner as provided in § 252.51. The penal sum of the bond shall be sufficient to cover the amount of drawback which will at any time constitute a charge against the bond: *Provided,* That the maximum penal sum shall not exceed $200,000, but in no case shall the penal sum be less than $1,000.

(46 Stat. 690, 691, as amended, 48 Stat. 999, as amended, 72 Stat. 1336; 19 U.S.C. 1309, 1311, 81c, 26 U.S.C. 5062)

§ 252.66 **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)

§ 252.67 **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 assistant regional commissioner, 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 § 252.72, 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, 1393; 26 U.S.C. 5062, 5214, 5522)

TERMINATION OF BONDS

§ 252.70 **Termination of bonds, Forms 2734 and 2736.**

Bonds, Forms 2734 and 2736, covering a specific lot of distilled spirits or wines withdrawn without payment of tax under this part, will be canceled by the assistant regional commissioner on receipt by him of Form 206 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, 1393; 26 U.S.C. 5175, 5522)

§ 252.71 **Termination of bonds, Forms 2735, 2737, and 2738.**

Continuing bonds, Forms 2735 and 2737, covering distilled spirits and/or wines withdrawn from time to time without payment of tax under this part and Form 2738 covering allowance of claims for drawback on distilled spirits and/or wines removed as authorized in §§ 252.171, 252.201, and 252.211, may be terminated as to liability for future withdrawals or claims (a) pursuant to application of surety as provided in § 252.72, (b) on approval of a superseding bond, or (c) on written notification to the assistant regional commissioner 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 or 2737, or no further claims for drawback are to be filed under bond Form 2738, the bond shall be canceled by the assistant regional commissioner in the manner and subject to the conditions provided in § 252.70.

(72 Stat. 1336, 1349, 1352, 1353, 1393; 26 U.S.C. 5062, 5173, 5175, 5176, 5522)

§ 252.72 **Application of surety for relief from bond.**

A surety on any bond given on Forms 2735, 2737, or 2738, may at any time in writing notify the principal and the assistant regional commissioner in whose office the bond is on file 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 assistant regional commissioner. This notice may not be given by an agent of the surety unless it is accompanied by a power of attorney, duly executed by the surety, authorizing him to give such notice, or by a statement, executed under the penalties of perjury, that such power of attorney is on file with the Commissioner of Accounts, Surety Bonds Branch, Treasury Department. The surtey shall also file with the assistant regional commissioner 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 § 252.73(b).

(68A Stat. 749, 72 Stat. 1336, 1354, 1362, 1393; 26 U.S.C. 6065, 5062, 5175, 5214, 5522)

§ 252.73 **Relief of surety from bond.**

(a) *Bonds, Forms 2734 and 2736.* The surety on a bond given on Form 2734 or Form 2736 shall be relieved from his liability under the bond when the bond has been canceled as provided for in § 252.70.

(b) *Bonds, Forms 2735, 2737, and 2738.* Where the surety on a bond given on Form 2735, Form 2737, or on Form 2738 has filed application for relief from liability, as provided in § 252.72, 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 notice, 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.

(72 Stat. 1349, 1352, 1353, 1392; 26 U.S.C. 5173, 5175, 5176, 5521)

§ 252.74 **Release of pledged securities.**

Securities of the United States, pledged and deposited as provided in § 252.53, shall be released only in accordance with the provisions of 31 CFR Part 225. Such securities will not be released by the assistant regional commissioner until liability under the bond for which they were pledged has been terminated. When the assistant regional commissioner 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 assistant regional commissioner may extend the date of release for such additional length of time as he deems necessary.

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

CHARGES AND CREDITS

§ 252.80 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 (1) the tax on the liquors withdrawn or (2) 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 as set forth above, shall, on the required accounting for such liquors or specially denatured spirits, constitute a credit to the bond of such tax or amount equal to the tax, as the case may be. Provisions regarding charges and credits on drawback bonds are contained in Subpart P of this part.

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

§ 252.91 General.

Distilled spirits on which the internal revenue tax has not been paid or determined may, subject to this part, be withdrawn from the bonded premises of a distilled spirits plant without payment of tax for:

(a) Exportation;

(b) Use on the vessels or aircraft described in § 252.21;

(c) Transfer to and deposit in a foreign-trade zone for exportation or for storage pending exportation; or

(d) Transportation to and deposit in a manufacturing bonded warehouse.

All such withdrawals shall be made under the applicable bond prescribed in Subpart D of this part.

(48 Stat. 999, as amended, 72 Stat. 1362, 1393; 19 U.S.C. 81c, 26 U.S.C. 5214, 5522)

§ 252.92 Application, Form 206.

(a) *Export, use on vessels and aircraft, and transfer to a foreign-trade zone.* Application for the withdrawal of distilled spirits without payment of tax for exportation from the United States, or for use on vessels and aircraft, or for transfer to a foreign-trade zone, shall be made by the exporter on Form 206, in quadruplicate, except that where the shipment is for use on aircraft, an extra copy, marked "Consignee's Copy", shall be prepared. Where the exporter is not the proprietor of the bonded premises of the distilled spirits plant from which the spirits are to be withdrawn, he shall forward all copies of the form to such proprietor, except that where the withdrawals are being made under the limitations set forth in § 252.62(b), all copies of Form 206 shall be submitted to the internal revenue officer at the designated distilled spirits plant as provided in that section.

(b) *Manufacturing bonded warehouse.* Application for the withdrawal of distilled spirits without payment of tax for transportation to and deposit in a manufacturing bonded warehouse shall be made by the proprietor of such warehouse on Form 206, in quadruplicate. The proprietor shall forward all copies of the application to the proprietor of the bonded premises of the distilled spirits plant from which the spirits are to be withdrawn, except that where the withdrawals are being made under the limitations set forth in § 252.64(b), all copies of Form 206 shall be submitted to the internal revenue officer at the designated distilled spirits plant as provided in that section and in applicable provisions of § 252.62(b).

(72 Stat. 1362, 1393; 26 U.S.C. 5214, 5522)

§ 252.93 Carrier to be designated.

The name of the carrier or carriers to be used in transporting the distilled spirits from the bonded premises of the distilled spirits plant to the port of export, or to the manufacturing bonded warehouse, or to the foreign-trade zone, as the case may be, shall be shown in the application. If the spirits are shipped on a through bill of lading and all carriers handling the spirits while in transit are not known, the name of the carrier to whom the distilled spirits are to be delivered at the shipping premises shall be shown.

(72 Stat. 1362, 1393; 26 U.S.C. 5214, 5522)

§ 252.94 Containers.

Distilled spirits authorized to be withdrawn without payment of tax from the bonded premises of a distilled spirits plant under the provisions of this subpart may be withdrawn from such establishment in such containers as may be authorized in Part 201 of this chapter. Except as otherwise provided in this part, the gauging, packaging, bottling, casing, marking, stamping, and reporting of distilled spirits prior to withdrawal shall be in accordance with the provisions of Part 201 of this chapter.

(46 Stat 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1360, 1362, 1366, 1369, 1374, 1393; 19 U.S.C. 1309, 81c, 26 U.S.C. 5206, 5214, 5233, 5235, 5301, 5522)

§ 252.95 Change of packages for exportation.

Whenever the exporter desires to transfer distilled spirits from packages filled in internal revenue bond to such other suitable packages as may be desired for exportation, such change of packages shall be made under the procedures of Part 201 of this chapter relating to consolidation of packages, and prior to the preparation of Form 206 covering the removal of the distilled spirits.

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

§ 252.96 Notice of intention to withdraw; approval of application.

(a) *Bond coverage previously approved.* Where Form 206 has been approved as to bond coverage by an internal revenue officer at another distilled spirits plant, as provided for in §§ 252.62 (b) and 252.64(b), the proprietor shall present all copies of the Form 206 to the internal revenue officer at his plant for his information, and notify him of his intention to withdraw distilled spirits without payment of tax pursuant to such Form 206. If the internal revenue officer is satisfied that the spirits described on the form are eligible for withdrawal, he shall return all copies of the form to the proprietor.

(b) *Bond coverage not approved.* Where prior approval of bond coverage has not been obtained, the proprietor shall submit all copies of Form 206 to the internal revenue officer at his plant for approval of the application. If the internal revenue officer is satisfied that the Form 206 has been properly executed, that the required bond has been filed in a sufficient amount, and that the described spirits are eligible for withdrawal, he shall indicate his approval on all copies of the form and return them to the proprietor.

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

§ 252.97 Exportation of spirits after expiration of bonded period not permitted.

Except as to spirits which were 8 years of age, or older, on July 26, 1936, and remained in bonded storage, internal revenue officers shall not permit the withdrawal for exportation of distilled spirits which have remained in bonded storage after the expiration of the 20-year bonded period prescribed by law. In such cases, the internal revenue officer shall note his disapproval across the face of all copies of Form 206 and return them to the proprietor. At the same time he shall (a) inform the proprietor of the distilled spirits plant in which the spirits are stored that the bonded period has expired, (b) determine the tax on the spirits, and (c) forward a report to the assistant regional commissioner in order that tax may be assessed.

(72 Stat. 1320; 26 U.S.C. 5006)

§ 252.98 Inspection and regauge.

The proprietor shall inspect all containers to be withdrawn pursuant to Form 206 and shall regauge all packages: *Provided,* That where distilled spirits are contained in bottles, or in tin, glass, or similar containers, or in sealed metal drums, or where they are to be withdrawn on the filling or original gauge (as authorized in Part 201 of this chapter), a regauge of such spirits need not be made. Any container bearing evidence of tampering, or of unusual loss that cannot be satisfactorily explained, shall be detained pending further investigation in accordance with the applicable provisions of Part 201 of this chapter. Where the withdrawal is to be made subject to regauge, the proprietor shall make such regauge under the direct supervision of the internal revenue officer and shall make his report of regauge on Form 2630, in quadruplicate. Such direct supervision shall be as defined in Part 201 of this chapter. He shall attach a copy of Form 2630 to each copy of Form 206 and shall enter his report of regauge on all copies of Form 206.

(46 Stat. 690, as amended, 72 Stat. 1358, 1362, 1366, 1369, 1393; 19 U.S.C. 1309, 26 U.S.C. 5204, 5214, 5233, 5235, 5522)

§ 252.99 Reduction in proof.

Distilled spirits contained in packages filled in internal revenue bond may be reduced in proof for exportation or for transfer to a foreign-trade zone, by the addition of pure water only after the packages have been regauged as provided in § 252.98. Only such addition of water may be made to the body of the spirits in any package as the natural wantage of the package will allow, and the transfer of spirits from one package to another for the purpose of reduction is not permitted. The spirits shall be reduced by the proprietor under the direct supervision of the internal revenue officer.

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

§ 252.100 Gauge after reduction.

Where spirits in packages have been reduced in proof under the provisions of § 252.99, the proprietor shall again gauge the packages under the direct supervision of the internal revenue officer and report the details thereof on another set of Forms 2630, in quadruplicate. Any unusual loss ascertained after reduction shall be satisfactorily explained by the proprietor and reported in accordance with the applicable provisions of Part 201 of this chapter. Each such report of gauge shall have noted thereon the statement "Gauge After Reduction", and a copy thereof shall be attached to each copy of Form 206, in addition to the copy of the Form 2630 covering the withdrawal gauge. After the spirits have been reduced and gauged, the proprietor shall also enter his report of such gauge on all copies of Form 206.

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

§ 252.101 Packages to be stamped.

Every package and authorized bulk conveyance of spirits (including tank cars and tank trucks but not pipelines) withdrawn without payment of tax under the provisions of this subpart shall have a distilled spirits stamp, overprinted with the word "Export", affixed thereto at the time of its removal from the bonded premises. Such stamps shall be issued by the internal revenue officer on receipt of the withdrawal form and after completion of any required gauge or regauge of the packages or bulk conveyances, and shall be overprinted, affixed, and canceled, in accordance with the provisions of Part 201 of this chapter.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 252.102 Bottles to be stamped.

Every bottle containing distilled spirits bottled in bond to be withdrawn under the provisions of this subpart shall bear an export strip stamp, procured and affixed in accordance with the provisions of Part 201 of this chapter. Every bottle of alcohol bottled for industrial use on the bonded premises of a distilled spirits plant to be withdrawn under the provisions of this subpart shall bear an alcohol strip stamp, procured and affixed in accordance with the provisions of Part 201 of this chapter, and such stamps shall be legibly and indelibly overprinted or stamped on the center of the stamp with the word "Export". Export stamps are not required on cases containing bottles of distilled spirits (including industrial alcohol) filled and stamped on bonded premises.

(72 Stat. 1358, 1369; 26 U.S.C. 5205, 5235)

§ 252.103 Marks and brands.

In addition to the marks and brands required to be placed on packages and cases at the time they are filled under the provisions of Part 201 of this chapter, the proprietor shall place additional marks, as herein specified, on each such container before removal from the bonded premises:

(a) "Export—Without Payment of Tax"—where the spirits are to be withdrawn for export from the United States, or for shipment to the Armed Services for export;

(b) "Use on Vessels (or Aircraft)—Without Payment of Tax"—where the spirits are to be withdrawn for use on vessels or aircraft; or

(c) "Deposit in C.M.B.W.—Cl. 6" followed by the name and address (city or town and State) of the consignee proprietor—where the spirits are to be withdrawn for transportation to and deposit in a manufacturing bonded warehouse: *Provided*, That the markings required by this paragraph need not be placed on containers removed to a contiguous manufacturing bonded warehouse, where the assistant regional commissioner finds that their omission will not constitute a jeopardy to the revenue; and

(d) Where the spirits are withdrawn for deposit in a foreign-trade zone, in addition to and immediately following the markings prescribed in paragraph (a) of this section, the words "via F.T.Z. No." followed by the number of the zone.

All such markings shall be placed on the containers in the same area and in the same manner as is prescribed by the regulations in Part 201 of this chapter for the affixing of the original marks.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1362, 1393; 19 U.S.C. 1309, 81c, 26 U.S.C. 5214, 5522)

§ 252.104 Certificates of origin.

Since the entry of distilled spirits at ports in certain foreign countries is permitted only upon the filing by the importer of an official certificate showing the origin and age of such spirits, internal revenue officers in charge of distilled spirits plants from which such spirits are withdrawn, may, on request of the applicant, furnish him with a certificate showing the origin and age of the spirits described in the entry for withdrawal, so far as may be determined from the marks and brands on the packages or cases containing the spirits. Such certificates shall be furnished on Form 2177. Form 2177 may also be issued for distilled spirits removed to a foreign-trade zone, in which case the number and location of the foreign-trade zone shall be shown on the form in lieu of the name of the foreign country.

§ 252.105 Release of spirits.

When the spirits are ready for shipment, the proprietor shall execute his report of inspection and tax liability on all copies of Form 206 and submit all copies, with attachments (if any) to the internal revenue officer. If the internal revenue officer is satisfied that there has been compliance with all applicable requirements of the regulations, including the stamping and marking requirements, he shall execute his release of the spirits on all copies of Form 206.

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

§ 252.106 Consignment, shipment, and delivery.

The consignment, shipment, and delivery of distilled spirits withdrawn without payment of tax under this subpart shall be made under the provisions of Subpart M.

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

§ 252.107 Disposition of forms.

When the distilled spirits have been removed, the internal revenue officer shall forward one copy of Form 206, with Form(s) 2630, if any, attached, to the assistant regional commissioner, and deliver the original and remaining copies with attachments (if any), to the proprietor of the distilled spirits plant. The proprietor shall retain one copy of each form, and deliver the original and one copy of each form to the officer to whom the shipment is consigned, or in whose care it is shipped, as required by Subpart M of this part. In the case of shipment by tank truck, the forms should be placed in a properly addressed sealed envelope and handed to the driver of the tank truck for delivery to the officer. Where the shipment is for delivery for use on aircraft, the copy marked "Consignee's Copy", provided for in § 252.92, shall be forwarded to the airline company at the airport.

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

LOSSES

§ 252.110 Losses.

Where there has been a loss of distilled spirits while in transit from the bonded premises of a distilled spirits plant to a port of export, a manufacturing bonded warehouse, a vessel or aircraft, or a foreign-trade zone, the provisions of Subpart O of this part, with respect to losses of spirits after withdrawal without payment of tax and to claims for remission of the tax thereon, shall be applicable.

(72 Stat. 1323; 26 U.S.C. 5008)

RETURN OF SPIRITS TO BONDED PREMISES

§ 252.115 General.

On application of the proprietor of a distilled spirits plant, 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, or for deposit in a manufacturing bonded warehouse, or for use on vessels and aircraft may, for good cause, be returned:

(a) To the bonded premises of any distilled spirits plant authorized to produce distilled spirits, for redistillation; or

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

(72 Stat. 1362, 1365; 26 U.S.C. 5214, 5223)

§ 252.116 Application for return of spirits withdrawn without payment of tax.

Where a proprietor of a distilled spirits plant desires to return spirits to his plant as provided in § 252.115, he shall submit a written application, in quintuplicate, to the assistant regional commissioner for the region in which his plant is located, for approval of the return of the spirits. The application 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 Form 206 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.

The application shall be executed under the penalties of perjury. On approval of the application the assistant regional commissioner shall forward the original and two copies to the internal revenue officer in charge of the plant, and return two copies to the proprietor, who, in turn, shall deliver them to the exporter.

(72 Stat. 1362, 1365; 26 U.S.C. 5214, 5223)

§ 252.117 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 authorized to receive them. In case of emergency, the principal on the bond may arrange the return of spirits to bonded premises without an approved application, but such spirits shall be kept separate at the bonded premises and shall not be gauged (if required) or recorded in the records and reports of the proprietor until an approved application for such return has been obtained as provided in § 252.115. Such principal or his agent shall present to the appropriate customs official the two copies of the approved application authorizing the return unless the spirits are returned before the Form 206 has been filed with the customs official. The customs officer shall, if he finds that the spirits are eligible for return under § 252.115, accept the approved application as authority for the return of the spirits to the distilled spirits plant noted on the application and shall mark each copy of Form 206 "Canceled", note the date thereon, affix a copy of the approved application to each set of the canceled Forms 206, return both sets to such principal, and, where the spirits are in his custody, release them for return. The canceled sets of Form 206, with attachments, shall be delivered by such principal or his agent to the internal revenue officer at the distilled spirits plant. When spirits have been returned before the withdrawal forms were filed with customs officials, the two copies of the approved application shall be submitted, by the principal or his agent, to the internal revenue officer who shall cancel and date each copy of Form 206 and affix copies of the approved application thereto.

(72 Stat. 1362, 1365; 26 U.S.C. 5214, 5223)

252.118 Disposition of forms.

The receipt, gauge, and disposition of the distilled spirits at the distilled spirits plant shall be in accordance with the applicable provisions of Part 201 of this chapter. On receipt of the report of gauge, Form 2630, from the proprietor, the internal revenue officer shall endorse, on each copy of the approved application to return the spirits, the date received and the total amount in proof gallons, and affix his signature and title. He shall forward the original Form 206, with attachments, to the assistant regional commissioner designated on the form, the original of the endorsed application, with Form 2630 to the assistant regional commissioner of his region, a copy of the endorsed application to the proprietor of the distilled spirits plant from which the spirits were withdrawn, deliver the copy of Form 206 (with attachments) and a copy of Form 2630 to the proprietor of the distilled spirits plant receiving the returned spirits, and retain a copy of the endorsed application and Form 2630 for his files.

(72 Stat. 1362, 1365; 26 U.S.C. 5214, 5223)

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

§ 252.121 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 § 252.21;

(c) Transfer to and deposit in a foreign-trade zone for exportation or for storage pending exportation; or

(d) 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, 1393; 19 U.S.C. 1309, 81c, 26 U.S.C. 5362, 5522)

§ 252.122 Application or notice, Form 206.

(a) *Export, use on vessels and aircraft, and transfer to a foreign-trade zone.* The exporter shall, where he is not the proprietor of the bonded wine cellar from which the wine is to be withdrawn, make application on Form 206, in quadruplicate, to the assistant regional commissioner of the region in which the bonded wine cellar is located, for approval of the withdrawal. Where the exporter is the proprietor of the bonded wine cellar from which the wine is to be withdrawn he shall, at the time of withdrawal of the wine, file a notice of such withdrawal on Form 206, in quadruplicate, with the assistant regional commissioner of the region in which the bonded wine cellar is located. Prior approval by the assistant regional commissioner is not required where the withdrawal is by the proprietor of the bonded wine cellar. In any case, where the withdrawal is for shipment for use on aircraft, an extra copy of Form 206, marked "Consignee's Copy", shall be prepared.

(b) *Manufacturing bonded warehouse.* Application for the withdrawal of wine without payment of tax for transportation to and deposit in a manufacturing bonded warehouse, shall be made by the proprietor of such warehouse on Form 206, in quadruplicate. The proprietor shall forward all copies of the application to the assistant regional commissioner, of the region in which is located the bonded wine cellar from which the wine is to be withdrawn, for approval prior to withdrawal of the wine.

(c) *Action by assistant regional commissioner.* Where, under the provisions of paragraphs (a) and (b) of this section, a Form 206 is submitted to the assistant regional commissioner for approval, the assistant regional commissioner shall, if satisfied that the application is in order and that the applicant has on file a good and sufficient bond, approve all copies of the application and forward all copies 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 Form 206 by the assistant regional commissioner is required, the proprietor of the bonded wine cellar may not ship the wine until the approved Forms 206 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 Form 206.

(72 Stat. 1380, 1393; 26 U.S.C. 5362, 5522)

§ 252.123 Marks and brands.

In addition to the marks and brands required to be placed on the containers at the time they are filled under the provisions of Part 240 of this chapter, the proprietor shall place additional marks, as herein specified, on each container before removal from the bonded premises:

(a) "Export—Without Payment of Tax"—where the wine is to be withdrawn for export from the United States, or for shipment to the Armed Services for export;

(b) "Use on Vessels (or Aircraft)—Without Payment of Tax"—where the wine is to be withdrawn for use on vessels or aircraft; or

(c) "Deposit in C.M.B.W.—Cl. 6" followed by the name and address (city or town and State) of the consignee proprietor—where the wine is withdrawn for transportation to and deposit in a manufacturing bonded warehouse: *Provided*, That the markings required by this paragraph need not be placed on containers removed for transfer to a contiguous manufacturing bonded warehouse, where the assistant regional commissioner finds that their omission will not constitute a jeopardy to the revenue; and

(d) Where the wine is withdrawn for deposit in a foreign-trade zone, in addition to and immediately following the markings prescribed in paragraph (a), the words "via F.T.Z. No." followed by the number of the zone.

All such markings shall be placed on the containers in the same area and in the same manner as is prescribed by the regulations in Part 240 of this chapter for the affixing of the original marks.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1380, 1393; 19 U.S.C. 1309, 81c, 26 U.S.C. 5362, 5522)

§ 252.124 Consignment, shipment, and delivery.

The consignment, shipment, and delivery of wines withdrawn without payment of tax under this subpart shall be made under the provisions of Subpart M of this part.

(72 Stat. 1380; 26 U.S.C. 5362)

§ 252.125 Disposition of forms.

On removal of the wines from the premises of the bonded wine cellar, the proprietor shall forward one copy of Form 206 to the assistant regional commissioner, retain one copy for his files, and deliver the original and remaining copy to the officer to whom the shipment is consigned, or in whose care it is shipped, as required by Subpart M. Where the shipment is for delivery for use on aircraft, the copy marked "Consignee's Copy", provided for in § 252.122, shall be forwarded to the airline company at the airport.

(72 Stat. 1380; 26 U.S.C. 5362)

§ 252.126 Proprietor's report.

The records of the proprietor of the bonded wine cellar shall reflect the quantity of wine removed without payment of tax under this subpart, and he shall report the quantity of wine so removed on Form 702.

(72 Stat. 1380; 26 U.S.C. 5362)

§ 252.127 Losses.

Where there has been a loss of wines while in transit from a bonded wine cellar to a port of export, a foreign-trade zone, a vessel or aircraft, or a manufacturing bonded warehouse, the provisions of Subpart O of this part, with respect to losses of wines after withdrawal without payment of tax and to claims for remission of the tax thereon, shall be applicable.

(72 Stat. 1381, 1382; 26 U.S.C. 5370, 5371)

RETURN OF WINES TO BONDED WINE CELLAR

§ 252.130 General.

On application of the proprietor of a bonded wine cellar, wines which have been lawfully withdrawn without payment of tax under the provisions of this subpart for exportation, or for use on vessels and aircraft, or for deposit in a foreign-trade zone, or for deposit in a manufacturing bonded warehouse may, for good cause, be returned to the bonded wine cellar from which withdrawn, for storage pending subsequent removal for lawful purposes: *Provided*, That such wines are returned before they are exported, laden as supplies upon or used on vessels or aircraft, deposited in a foreign-trade zone, or deposited in a manufacturing bonded warehouse, as the case may be.

(72 Stat. 1380; 26 U.S.C. 5362)

§ 252.131 Application for return of wines withdrawn without payment of tax.

Where a proprietor of a bonded wine cellar desires to return wines to his bonded wine cellar as provided in § 252.130, he shall submit a written application, in duplicate, to the assistant regional commissioner for the region in which his premises are located, for approval of the return of the wines. The application shall show:

(a) Name, address, and registry number of the bonded wine cellar.

(b) Name and address of the principal on the bond under which the wines were withdrawn.

(c) Serial number of the Form 206 and the date withdrawn.

(d) Present location of wines to be returned.

(e) Kind of wines to be returned.

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

(g) Total quantity in wine gallons for each separate tax class of wines to be returned.

(h) Reason for return of the wines.

The application shall be executed under the penalties of perjury. On approval of the application the assistant regional commissioner shall return both copies to the proprietor, who, in turn, shall deliver them to the exporter.

(72 Stat. 1380; 26 U.S.C. 5362)

§ 252.132 Responsibility for return of wine.

The principal on the bond under which the wines were withdrawn without payment of tax shall be responsible for arranging the return of the wines to the bonded wine cellar from which they were withdrawn. In case of emergency, the principal on the bond may arrange the return of wines to bonded premises without an approved application, but such wines shall be kept separate at the bonded premises and shall not be recorded in the records and reports of the proprietor until an approved application for such return has been obtained as provided in § 252.131. Such principal or his agent shall present to the appropriate customs official the two copies of the approved application authorizing the return unless the wines are returned before the Form 206 has been filed with the customs official. The customs officer shall, if he finds that the wines are eligible for return under § 252.130, accept the approved application as authority for the return of the wines to the bonded wine cellar noted on the application and shall mark each copy of Form 206 "Canceled", note the date thereon, affix a copy of the approved application to each of the canceled Forms 206, return both Forms 206 to the principal, and, where the wines are in his custody, release them for return. The canceled Forms 206, with attachments, shall be delivered by such principal or his agent to the proprietor of the bonded wine cellar. When wines have been returned before the Forms 206 were filed with customs officials, the two copies of the approved application shall be submitted, by the principal or his agent, to the proprietor of the bonded wine cellar who shall cancel and date each copy of Form 206 and affix copies of the approved application thereto.

(72 Stat. 1380; 26 U.S.C. 5362)

§ 252.133 Disposition of forms.

On receipt of the wines at the bonded wine cellar, the proprietor shall endorse, on each copy of the approved application to return the wines, the date received, the total amount in wine gallons of each tax class of wine returned, and affix his signature. He shall forward the original Form 206, with attached application, to the assistant regional commissioner of the region in which his premises are located, and retain the remaining copy for his files. The storage, disposition, and records pertaining to such returned wines shall be in accordance with the applicable provisions of Part 240 of this chapter.

(72 Stat. 1380; 26 U.S.C. 5362)

Subpart G—Removal of Beer Without Payment of Tax for Exportation, Use as Supplies on Vessels and Aircraft, or Transfer to a Foreign-Trade Zone

§ 252.141 General.

Beer may, subject to this part, be removed from the brewery without payment of tax, for:

(a) Export to a foreign country;

(b) Use as supplies on the vessels and aircraft described in § 252.21; or

(c) Transfer to and deposit in a foreign-trade zone for exportation or for storage pending exportation.

All such removals shall be made under the brewer's bond, Form 1566, as prescribed in § 252.60.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1334; 19 U.S.C. 1309, 81c, 26 U.S.C. 5053)

§ 252.142 Notice, Form 1689.

Whenever a brewer intends to remove beer without payment of tax from the brewery for exportation from the United States or for use as supplies on vessels and aircraft or for transportation to and deposit in a foreign-trade zone, he shall prepare a notice for each such withdrawal on Form 1689, in quadruplicate, except that where the shipment is for use on aircraft, an extra copy, marked "Consignee's Copy", shall be prepared.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1334; 19 U.S.C. 1309, 81c, 26 U.S.C. 5053)

§ 252.143 Marks and brands.

In addition to the marks and brands prescribed in Part 245 of this chapter, each keg, barrel, case, crate, or other package containing beer to be removed without payment of tax under this subpart, shall be marked as specified below:

(a) "Export—Without Payment of Tax"—where the beer is to be removed for export from the United States, or for shipment to the Armed Services for export;

(b) "Use on Vessels (or Aircraft)—Without Payment of Tax"—where the beer is to be removed for use as supplies on vessels or aircraft; and

(c) Where the beer is removed for deposit in a foreign-trade zone, in addition to and immediately following the markings prescribed in paragraph (a) of this section, the words "via F.T.Z. No." followed by the number of the zone.

All such markings shall be placed on the containers in the same manner as is prescribed by the regulations in Part 245 of this chapter for the affixing of the original marks.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1334; 19 U.S.C. 1309, 81c, 26 Stat. 5053)

§ 252.144 Consignment, shipment, and delivery.

The consignment, shipment, and delivery of beer removed from a brewery without payment of tax under this subpart shall be in accordance with the applicable provisions of Subpart M.

(72 Stat. 1334; 26 U.S.C. 5053)

§ 252.145 Disposition of forms.

On removal of the beer withdrawn under the provisions of this subpart, the brewer shall forward one copy of Form 1689 to the assistant regional commissioner, retain one copy for his files, and deliver the original and remaining copy to the officer to whom the shipment is consigned, or in whose care it is shipped, as required by Subpart M of this part. Where the shipment is for delivery for use on aircraft, the copy marked "Consignee's Copy", provided for in § 252.142, shall be forwarded to the airline company at the airport.

(46 Stat. 690, as amended, 72 Stat. 1334; 19 U.S.C. 1309, 26 U.S.C. 5053)

§ 252.146 Return of beer.

Beer removed without payment of tax under the provisions of this subpart may be returned to the brewery from which removed if lading of the beer is delayed more than the period provided in § 252.262 or where the brewer has other good cause for such return. The brewer shall request the collector of customs to release the beer for return to the brewery and, on such release, the collector of customs shall endorse both copies of the appropriate Form 1689 to show his release of the beer, and return the forms to the brewer. On return of the beer to the brewery, the brewer shall record the quantity in his daily records, mark the two copies of Form 1689 returned by the collector of customs, "Canceled—returned to brewery", and forward one copy to the assistant regional commissioner. The total quantity of beer involved in all export shipments returned during any calendar month shall be reported as a special entry on Form 103.

(72 Stat. 1334, 1335; 26 U.S.C. 5053, 5056)

§ 252.147 Brewer's report.

The brewer's records shall reflect the quantity of beer removed without payment of tax under this subpart, and he shall report the quantity of beer so removed on Form 103.

(72 Stat. 1334; 26 U.S.C. 5053)

§ 252.148 Losses.

Where there has been a loss of beer while in transit from the brewery to a port for exportation, or for lading as supplies on a vessel or aircraft, or to a foreign-trade zone, the provisions of Subpart O of this part, with respect to losses of beer after removal without payment of tax, shall be applicable.

(72 Stat. 1333, 1334; 26 U.S.C. 5051, 5053)

Subpart H—Withdrawal of Specially Denatured Spirits, Free of Tax, for Exportation or Transfer to a Foreign-Trade Zone

§ 252.151 General.

Specially denatured spirits may, under this part, be withdrawn from the bonded premises of a distilled spirits plant, free of tax, for:

(a) Exportation; or

(b) Transfer to and deposit in a foreign-trade zone for exportation or for storage pending exportation.

All such withdrawals shall be made under a consent of surety on the proprietor's bond, Form 2601, as prescribed in § 252.58(c).

(48 Stat. 999, as amended, 72 Stat. 1362; 19 U.S.C. 81c, 26 U.S.C. 5214)

§ 252.152 Application, Form 206.

Application for withdrawal of specially denatured spirits, as authorized in § 252.151, shall be made on Form 206, in quadruplicate, by the proprietor of the distilled spirits plant from which the denatured spirits are to be withdrawn. All copies of the form shall be delivered to the internal revenue officer at the plant.

(48 Stat. 999, as amended, 72 Stat. 1362; 19 U.S.C. 81c, 26 U.S.C. 5214)

§ 252.153 Withdrawal procedure.

The provisions of §§ 252.93, 252.94, 252.98, 252.105, and 252.117 in respect of method of conveyance, authorized containers, gauging, inspection, approval and release, report of removal, and disposition of forms shall be applicable to specially denatured spirits to be withdrawn under the provisions of this subpart.

(48 Stat. 999, as amended, 72 Stat. 1362; 19 U.S.C. 81c, 26 U.S.C. 5214)

§ 252.154 Marking containers.

In addition to the marks and brands required to be placed on the containers at the time they are filled under the provisions of Part 201 of this chapter, the proprietor shall place additional marks, as herein specified, on each container before removal from the bonded premises:

(a) "Export—Tax-Free"—where the specially denatured spirits are to be withdrawn for export from the United States; and

(b) Where the specially denatured spirits are withdrawn for deposit in a foreign-trade zone, in addition to and immediately following the markings precribed in paragraph (a) of this section, the words "via F.T.Z. No." followed by the number of the zone.

All such markings shall be placed on the containers in the same area and in the same manner as is prescribed by the regulations in Part 201 of this chapter for the affixing of the original marks.

(48 Stat. 999, as amended, 72 Stat. 1362; 19 U.S.C. 81c, 26 U.S.C. 5214)

§ 252.155 Consignment, shipment, and delivery.

The consignment, shipment, and delivery of specially denatured spirits withdrawn free of tax under this subpart shall be made under the provisions of Subpart M of this part.

(48 Stat. 999, as amended, 72 Stat. 1362; 19 U.S.C. 81c, 26 U.S.C. 5214)

§ 252.156 Losses.

Where there has been a loss of specially denatured spirits while in transit from the bonded premises of a distilled spirits plant to a port of export or a foreign-trade zone, the exporter shall file claim for allowance of the loss in accordance with the provisions of Subpart O of this part.

RETURN OF SPECIALLY DENATURED SPIRITS TO BONDED PREMISES

§ 252.160 General.

On application of the proprietor of a distilled spirits plant, specially denatured spirits, which have been lawfully withdrawn free of tax under the provisions of this part for exportation, or for deposit in a foreign-trade zone, may be returned—

(a) To the bonded premises of any distilled spirits plant authorized to produce distilled spirits, for redistillation; or

(b) To the bonded premises of any distilled spirits plant for storage pending subsequent lawful withdrawal free of tax: *Provided*, That such specially denatured spirits are returned before they are exported, or deposited in a foreign-trade zone, as the case may be.

Where the specially denatured spirits are to be returned to bonded premises for storage, without redistillation, the proprietor shall also execute a consent of surety on Form 1533 to extend the terms of his bond, Form 2601, to cover the return and storage of such specially denatured spirits.

(72 Stat. 1362, 1365; 26 U.S.C. 5214, 5223)

§ 252.161 Application for return of specially denatured spirits.

Where a proprietor of a distilled spirits plant desires to return specially denatured spirits to his plant as provided in § 252.160, he shall submit a written application, in quintuplicate, to the assistant regional commissioner for the region in which his plant is located, for approval of the return of the spirits. The application shall show:

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

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

(c) Serial number of the Form 206 and the date withdrawn.

(d) Present location of specially denatured spirits to be returned.

(e) Description of the specially denatured spirits—kind, serial numbers of containers, and quantity in wine gallons.

(f) Reason for return of the specially denatured spirits.

(g) Disposition to be made of returned specially denatured spirits, i.e., redistillation or return to bonded premises for storage.

The application shall be executed under the penalties of perjury. On approval of the application, the assistant regional commissioner shall forward the original and two copies to the internal revenue officer in charge of the plant, and return two copies to the proprietor, who, in turn, shall deliver them to the exporter.

(72 Stat. 1362, 1365; 26 U.S.C. 5214, 5223)

§ 252.162 Responsibility for return of specially denatured spirits.

The principal on the bond under which the specially denatured spirits were withdrawn free of tax shall, be responsible for arranging the return of such spirits to the distilled spirits plans authorized to receive them. In case of emergency, the principal on the bond may arrange the return of the specially denatured spirits to bonded premises without an approved application, but such spirits shall be kept separate at the bonded premises and shall not be gauged or recorded in the records and reports of the proprietor until an approved application for such return has been obtained. Such principal or his agent shall present to the appropriate customs official the two copies of the approved application authorizing the return unless the specially denatured spirits are returned before the Form 206 has been filed with the customs officials. The customs officer shall, if he finds that the specially denatured spirits are eligible for return under § 252.160, accept the approved application as authority for the return of the specially denatured spirits to the distilled spirits plant noted on the application and shall mark each copy of Form 206 "Canceled", note the date thereon, affix a copy of the approved application to each set of the canceled Forms 206, return both sets to the principal, and, where the spirits are in his custody, release them for return. The canceled sets of Form 206, with attachments, shall be delivered by the principal or his agent to the internal revenue officer at the distilled spirits plant. When specially denatured spirits have been returned before the Form 206 was filed with customs officials, the two copies of the approved application together with the two sets of Form 206 shall be submitted, by the principal or his agent, to the internal revenue officer who shall cancel and date each copy of Form 206 and affix copies of the approved application thereto.

(72 Stat. 1362, 1365; 26 U.S.C. 5214, 5223)

§ 252.163 Disposition of forms.

The receipt, gauge, and disposition of the specially denatured spirits at the distilled spirits plant shall be in accordance with the applicable provisions of Part 201 of this chapter. On receipt of the report of gauge from the proprietor, the internal revenue officer shall endorse, on each copy of the approved application to return the specially denatured spirits, the date received and the total amount in wine gallons, and affix his signature and title. He shall forward the original Form 206, with attachments, to the assistant regional commissioner designated on the form, the original of the endorsed application to the assistant regional commissioner of his region, a copy of the endorsed application to the proprietor of the distilled spirits plant from which the specially denatured spirits were withdrawn, deliver the copy of Form 206 (with attachments) to the proprietor of the distilled spirits plant receiving the returned specially denatured spirits, and retain a copy of the endorsed application and the report of gauge for his files.

(72 Stat. 1362, 1365; 26 U.S.C. 5214, 5223)

Subpart I—Exportation of Distilled Spirits Bottled or Packaged, or Restamped and Marked, Especially for Export With Benefit of Drawback

§ 252.171 General.

Distilled spirits manufactured or produced in the United States on which an internal revenue tax has been paid or determined, and which have been bottled or packaged (including stamping and labeling), or restamped and marked, under the applicable provisions of Part 201 of this chapter, especially for export with benefit of drawback may, subject to this part, be:

(a) Exported;

(b) Laden for use on the vessels or aircraft described in § 252.21; or

(c) Transferred to and deposited in a foreign-trade zone for exportation or for storage pending exportation.

On receipt by the assistant regional commissioner of required evidence of such exportation, lading for use, or transfer, there shall be allowed a drawback equal in amount to the tax found to have been paid or determined on such spirits.

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

EVIDENCE OF TAXPAYMENT OF IMPORTED SPIRITS AND WINES

§ 252.175 Customs certification on Form 1583.

Where distilled spirits bottled or packaged, or restamped and marked, especially for export with benefit of drawback are manufactured (rectified) in the United States with the use of imported spirits or wines, the collector of customs at the port where the entry or withdrawal for consumption was made shall, on application in writing by the rectifier, execute a certificate on Form 1583, in triplicate, showing that the internal revenue tax has been collected on the imported spirits or wines described in the application. The collector will forward the original of Form 1583 to the assistant regional commissioner designated in the application, forward one copy to the rectifier, and retain one copy for his files.

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

§ 252.176 Application for certificate.

The rectifier shall set forth in his application for the issuance of the certificate, Form 1583, the address of the assistant regional commissioner to whom the form is to be sent, together with sufficient information to enable the collector of customs to identify the importation, such as:

(a) The port of entry,

(b) The entry number,

(c) The name of the importing vessel or other carrier,

(d) The date of importation,

(e) The name of the importer,

(f) The marks and numbers of packages, and

(g) A description of the spirits or wines.

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

§ 252.177 Action by assistant regional commissioner.

The assistant regional commissioner will not approve a claim for drawback, Form 1582, or establish a rate of drawback on Form 1656, when the distilled spirits covered thereby are manufactured (rectified) from imported spirits or wines, until the Form 1583 has been received.

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

EXPORT STORAGE

§ 252.180 Export storage at distilled spirits plants.

If the proprietor of a distilled spirits plant intends to receive, store, and remove tax determined distilled spirits which have been bottled or packaged, or restamped and marked, especially for export with benefit of drawback, he shall, except as provided in § 252.181, provide for the storage of such articles on the unbonded premises of the distilled spirits plant or on wholesale liquor dealer premises located on the general premises of the distilled spirits plant or contiguous thereto. During the storage of such distilled spirits they shall be segregated from all articles intended for domestic use, and shall be subject to inspection by internal revenue officers during regular business hours. The records covering export storage transactions at premises provided under the provisions of this section shall be maintained and reports shall be rendered in accordance with the applicable provisions of Part 201 of this chapter.

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

§ 252.181 Noncontiguous off-premises export storage.

The proprietor of a distilled spirits plant may provide storage at any noncontiguous location for the receipt, storage, and removal of tax determined distilled spirits which have been bottled and stamped, or restamped and marked, especially for export with benefit of drawback. The provisions of Part 194 of this chapter shall be applicable to such operation. Records covering export storage transactions at premises established under the provisions of this section shall be kept at each such place of storage. The records shall be kept and reports shall be rendered in accordance with the applicable provisions of Part 194 of this chapter.

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

§ 252.182 Wholesale liquor dealers export storage.

The establishment and the maintenance of export storage by wholesale liquor dealers shall be in accordance with the applicable provisions of Part 194 of this chapter.

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

TRANSFER AND STORAGE PENDING EXPORTATION

§ 252.185 Use of export storage.

Export storage established under the provisions of § 252.180, may be used for the storage, pending exportation or transfer to other premises for export storage, of tax determined distilled spirits which have been bottled or packaged, or restamped and marked, especially for export by the proprietor or other qualified persons. Export storage provided by a wholesale liquor dealer under the provisions of Part 194 of this chapter, or by the proprietor of a distilled spirits plant under the provisions of § 252.181, may be used for the storage, pending exportation or transfer to other premises for export storage, of tax determined distilled spirits which have been bottled and stamped, or restamped and marked, especially for export with benefit of drawback and are in immediate containers having a capacity not in excess of 1 wine gallon.

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

§ 252.186 Notice of transfer, Form 1656.

Distilled spirits bottled or packaged, or restamped and marked, especially for export with benefit of drawback may, pursuant to notice on Form 1656, and subject to the limitations set forth in § 252.185, be transferred from any export storage established under the provisions of §§ 252.180 and 252.181 and of Part 194 of this chapter, to any other export storage established thereunder for storage, pending transfer to other premises for export storage or removal for (a) direct exportation, or (b) for use as supplies on vessels or aircraft, or (c) for transfer to and deposit in a foreign-trade zone for exportation or for storage pending exportation. Form 1656 shall be executed in triplicate (or quadruplicate if the consignee is located in another region) by the consignor-proprietor of the export storage.

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

§ 252.187 Transfer from export storage.

On shipment of the cases or packages described on Form 1656, the proprietor shall execute the report of removal on all copies of the form, retain one copy, and, in the case of intraregion shipments, forward the original and one copy to the assistant regional commissioner of the region in which the consignor's premises are located. In the case of interregion shipments, an additional copy shall be forwarded to such assistant regional commissioner.

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

§ 252.188 Establishment of drawback rate.

On receipt of Form 1656, the assistant regional commissioner shall establish the rate of drawback on the distilled spirits described on the application and make notation of such rate on the form. Where imported spirits or wines were used in the manufacture of the spirits bottled or packaged, or restamped and marked, especially for export with benefit of drawback, the assistant regional commissioner shall not establish the rate of drawback on Form 1656 prior to receipt from the collector of customs of Form 1583. The assistant regional commissioner shall, upon notation of the rate of drawback on Form 1656, retain the original when the consignee is located in the same region, and forward the remaining copy to the consignee. In the case of interregion shipments, the original shall be forwarded to the assistant regional commissioner of the consignee's region, a copy shall be retained, and the remaining copy shall be forwarded to the consignee.

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

FILING OF NOTICE, AND REMOVAL

§ 252.190 Notice and claim, Form 1582.

Notice of intention to remove distilled spirits from export storage for export, for use as supplies on vessels or aircraft, or for deposit in a foreign-trade zone, shall be prepared by the exporter on Form 1582, in quadruplicate: *Provided,* That where the withdrawal is for use on aircraft, an extra copy, marked "Consignee's Copy", shall be prepared. Each Form 1582 shall be given, by the exporter, a serial number beginning with "1" for the first day of January of each year and running consecutively thereafter to December 31, inclusive. The exporter shall also execute his claim and entry for drawback on all copies of the form and deliver all copies to the proprietor of the premises from which the distilled spirits are to be removed.

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

§ 252.191 Claim and entry signed by agent.

Where a claim and entry on Form 1582 is signed by an agent, proper power of attorney authorizing the agent to execute the claim for the exporter shall be filed, on Form 1534, with the assistant regional commissioner with whom the claim is filed.

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

§ 252.192 Packages of distilled spirits to be gauged.

Where distilled spirits to be removed have been packaged especially for export with benefit of drawback, the proprietor of the export storage shall gauge the packages prior to preparation of his notice on Form 1582: *Provided,* That where inspection discloses no evidence of loss and removal is made within 30 days from the time of packaging the distilled spirits for export with benefit of drawback, the filling gauge shall be considered the gauge at the time of removal. The internal revenue officer at the distilled spirits plant shall supervise the gauging of the distilled spirits by such proprietor. Report of gauge shall be made by the proprietor on Form 2630, in quadruplicate (appropriately modified), and a copy of the report of gauge shall be attached to each copy of Form 1582 and considered a part thereof. The report of gauge shall be checked by the internal revenue officer by verifying the gauge of a representative number of packages, selected at random.

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

§ 252.193 Export marks.

In addition to the marks and brands required to be placed on the containers at the time they are filled under the provisions of Part 201 of this chapter, the proprietor of the export storage shall place additional marks, as herein specified, on each container before removal from export storage for export, for use on vessels or aircraft, or for transfer to a foreign-trade zone:

(a) "Export—Drawback Claimed"—Where the spirits are to be removed for export from the United States; or

(b) "Use on Vessels (or Aircraft)—Drawback Claimed"—Where the spirits are to be removed for use on vessels or aircraft; and

(c) Where the spirits are removed for deposit in a foreign-trade zone, in addition to and immediately following the markings prescribed in (a) above, the words, "via F.T.Z. No." followed by the number of the zone.

All such markings shall be placed on the containers in the same manner and in the same area as is prescribed in Part 201 of this chapter for the affixing of the original marks.

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

§ 252.194 Removal from export storage.

Where distilled spirits which have been bottled or packaged, or restamped and marked, especially for export with benefit of drawback are to be removed from export storage for export, deposit in a foreign-trade zone, or use as supplies on vessels or aircraft, the cases or packages shall be inspected by the proprietor and removed. When the spirits are shipped, the proprietor shall execute the certificate of removal on Form 1582.

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

§ 252.195 Disposition of Form 1582.

The proprietor shall forward one copy of Form 1582 to the assistant regional commissioner, retain one copy for his files, and deliver the original and remaining copy (copies) to the exporter. On receipt of the Forms 1582 from the proprietor, the exporter shall immediately forward or deliver the original and one copy to the officer to whom the shipment is consigned, or in whose care it is shipped, as required by Subpart M of this part. Where the shipment is for delivery for use on aircraft, the copy marked "Consignee's Copy", provided for in § 252.190, shall be forwarded by the exporter to the airline company at the airport.

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

§ 252.196 Consignment, shipment, and delivery.

The consignment, shipment, and delivery of distilled spirits removed under this subpart for export, use on vessels or aircraft, or for transfer to a foreign-trade zone, shall be in accordance with the applicable provisions of Subpart M of this part.

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

Subpart J—Exportation, With Benefit of Drawback, of Distilled Spirits in Casks or Packages Filled in Internal Revenue Bond

§ 252.201 General.

On the exportation, or deposit in a foreign-trade zone for exportation or for storage pending exportation, of distilled spirits in casks or packages filled in internal revenue bond and containing not less than 20 wine gallons each, on which all taxes have been paid or determined, drawback of the internal revenue tax paid or determined may be allowed, subject to compliance with the provisions of this subpart.

(48 Stat. 999, as amended, 72 Stat. 1327; 19 U.S.C. 81c, 26 U.S.C. 5009)

§ 252.202 Application, Form 1629.

Any person desiring to claim drawback under the provisions of § 252.201, shall make application on Form 1629, in triplicate. Where the spirits are to be exported, all copies of the form shall be presented to the collector of customs for the port from which the exportation is to be made in sufficient time for inspection, gauge, and supervision of lading to be made by customs officers. Where the spirits are to be deposited in a foreign-trade zone for exportation or for storage pending exportation, all copies of the form shall be presented to the customs officer in charge of the zone.

(48 Stat. 999, as amended, 72 Stat. 1327; 19 U.S.C. 81c, 26 U.S.C. 5009)

§ 252.203 Customs procedure.

(a) *At port of export.* On receipt of Form 1629, the collector of customs shall deliver all copies to a customs officer. The customs officer shall inspect and gauge the packages, prepare a gauge thereof on Form 696, in triplicate, and completely obliterate the stamps affixed thereto. He shall then cause each package to be marked "Export—Drawback Claimed," and permit the lading of the packages aboard the exporting conveyance. The customs officer shall then execute his certificate on all copies of Form 1629, forward one copy of Form 1629 and Form 696 to the exporter, and return the original and remaining copy of each form to the collector of customs. On clearance of the exporting conveyance, the collector of customs shall execute his certificate on both copies of Form 1629, forward the originals of Form 1629 and 696 to the assistant regional commissioner of the region in which the exporter is located and retain the remaining copy of each form for his files.

(b) *At foreign-trade zone.* On receipt of Form 1629, the customs officer in charge of the foreign-trade zone shall inspect and gauge the packages, prepare a gauge thereof on Form 696, in triplicate, and completely obliterate the stamps affixed thereto. He shall then cause each package to be marked "Export—Drawback Claimed—Via F.T.Z. No." followed by the number of the zone. The customs officer shall then execute his certificate on all copies of Form 1629, forward one copy of Form 1629 and Form 696 to the exporter, and forward the originals of Form 1629 and Form 696 to the assistant regional commissioner of the region in which the exporter is located, and shall retain one copy of each form for his own record.

(48 Stat. 999, as amended, 72 Stat. 1327; 19 U.S.C. 81c, 26 U.S.C. 5009)

§ 252.204 Claim.

The exporter, on receipt of the Forms 1629 and 696 from the customs officer, shall, on the basis of the rate of tax paid or determined, and the quantity, in proof gallons, of distilled spirits shown by the customs gauge on Form 696 to be contained in the packages, compute the amount of eligible drawback on the spirits, and execute his claim for drawback of such amount on the Form 1629. He shall then forward the claim, Form 1629, together with the copy of Form 696, to the assistant regional commissioner of the region in which he is located.

(48 Stat. 999, as amended, 72 Stat. 1327; 19 U.S.C. 81c, 26 U.S.C. 5009)

Subpart K—Exportation of Wine With Benefit of Drawback

§ 252.211 General.

Wines manufactured or produced in the United States on which an internal revenue tax has been paid or determined and contained in packages or unbroken cases, filled on premises qualified under this chapter to package or bottle wines, may, subject to this part, be:

(a) Exported;

(b) Laden for use on the vessels or aircraft described in § 252.21; or

(c) Transferred to and deposited in a foreign-trade zone for exportation or for storage pending exportation.

On receipt by the assistant regional commissioner of required evidence of such exportation, lading for use, or transfer, there shall be allowed a drawback equal in amount to the tax found to have been paid or determined on such wines.

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

§ 252.212 Persons authorized.

Persons who have qualified under this chapter as proprietors of distilled spirits plants, bonded wine cellars, or taxpaid wine bottling houses, and persons who are wholesale liquor dealers as defined in section 5112, I.R.C., and have paid the required tax as a wholesale liquor dealer, are authorized to remove wines under the provisions of this subpart.

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

§ 252.213 Labeling of bottled wines.

Where bottled wines are to be exported with benefit of drawback under the provisions of this subpart, such bottles may be labeled with a label conforming to the provisions of 27 CFR Part 4: *Provided*, That the words "For Export" appear on such label or on a neck label affixed to each bottle. If such bottles are not so labeled, they shall be labeled as follows:

(a) Kind of wines;

(b) Name of bottler;

(c) City or town and State in which bottled;

(d) Alcohol content by volume, except that if not over 14 percent, either the type designations "table wine" or "light wine," or the alcoholic content, shall be stated;

(e) The words "For Export"; and

(f) The net contents of the bottle, unless legibly blown therein.

Such additional information not inconsistent with the foregoing requirements as may be desired by the exporter may also appear on the label.

§ 252.214 Notice and claim, Form 1582-A.

Claim for allowance of drawback of internal revenue taxes on wines removed under the provisions of § 252.211 and § 252.212, shall be prepared by the exporter on Form 1582-A, in quadruplicate: *Provided*, That where the withdrawal is for use on aircraft, an extra copy, marked "Consignee's Copy", shall be prepared. Each Form 1582-A shall be given, by the exporter, a serial number beginning with "1" for the first day of January of each year and running consecutively thereafter to December 31, inclusive.

(46 Stat. 690, as amended, 72 Stat. 1336; 19 U.S.C. 1309, 26 U.S.C. 5062)

§ 252.215 Certificate of tax determination, Form 2605.

Every claim for drawback of tax on Form 1582-A shall be supported by a certificate, Form 2605, which shall be executed, in duplicate, (a) by the person who withdrew the wine from bond on tax determination, certifying that all taxes have been properly determined on such wine, or (b) where the wine was bottled or packaged after tax determination, by the person who did such bottling or packaging, certifying that the wines so bottled or packaged were received in taxpaid status and specifying from whom they were so received. The assistant regional commissioner may require other evidence of tax payment whenever he deems it necessary. It shall be the responsibility of the exporter to secure Form 2605, properly executed, and to submit the original of such form to the assistant regional commissioner with whom the claim, Form 1582-A, is filed. The exporter shall retain the copy of Form 2605 for his files.

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

§ 252.216 Marking of containers.

In addition to the marks and brands required to be placed on each container under the provisions of Parts 201, 231, or 240, of this chapter, each container removed under the provisions of this subpart shall have stenciled or otherwise marked thereon, in durable and legible letters and figures of not less than three-fourths of an inch in height, additional information, as specified below:

(a) "Export—Drawback Claimed"—where the removal is for export from the United States, or for shipment to the armed services for export; or

(b) "Use on Vessels (or Aircraft)—Drawback Claimed"—where the removal is for use on vessels or aircraft; and

(c) Where the wine is removed for deposit in a foreign-trade zone, in addition to and immediately following the markings prescribed in paragraph (a) of this section, the words "via F.T.Z. No." followed by the number of the zone.

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

§ 252.217 Consignment, shipment, and delivery.

The consignment, shipment, and delivery of wines removed under this subpart shall be made under the provisions of Subpart M of this part.

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

§ 252.218 Disposition of Forms 1582-A.

On removal of the wines from the premises, the exporter shall forward one copy of Form 1582-A to the assistant regional commissioner, retain one copy for his files, and deliver the original and remaining copy to the officer to whom the shipment is consigned, or in whose care it is shipped, as required by Subpart M of this part. Where the shipment is for delivery for use on aircraft, the copy marked "Consignee's Copy", provided for in § 252.214, shall be forwarded to the airline company at the airport.

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

Subpart L—Exportation of Beer With Benefit of Drawback

§ 252.221 General.

Beer brewed or produced in the United States and on which the internal revenue tax has been paid may, subject to this part, be:

(a) Exported;

(b) Delivered for use as supplies on the vessels and aircraft described in § 252.21; or

(c) Transferred to and deposited in a foreign-trade zone for exportation or for storage pending exportation.

Claim for drawback of taxes found to have been paid may be filed only by the producing brewer or his duly authorized agent. On receipt by the assistant regional commissioner of required evidence of such exportation, delivery for use, or transfer, there shall be allowed a drawback equal in amount to the tax found to have been paid on such beer.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1335; 19 U.S.C. 1309, 81c, 26 U.S.C. 5055)

§ 252.222 Claim, Form 1582-B.

Claim for allowance of drawback of internal revenue taxes on beer brewed or produced in the United States shall be prepared on Form 1582-B, in quadruplicate, as required by this part. Each Form 1582-B shall be given, by the person initiating the form, a serial number beginning with "1" for the first day of January of each year and running consecutively thereafter to December 31, inclusive.

(72 Stat. 1335; 26 U.S.C. 5055)

§ 252.223 Marking of containers.

In addition to the marks and brands required to be placed on each container under the provisions of Part 245 of this chapter, each container removed under the provisions of this subpart shall have stenciled or otherwise marked thereon, in durable and legible letters and figures of not less than three-fourths of an inch in height, additional information as specified below:

(a) "Export—Drawback Claimed"—where the removal is for export from the United States, or for shipment to the armed services for export; or

(b) "Use on Vessels (or Aircraft)—Drawback Claimed"—where the removal is for use as supplies on vessels or aircraft; and

(c) Where the beer is removed for deposit in a foreign-trade zone, in addition to and immediately following the markings prescribed in paragraph (a) of this section, the words "via F.T.Z. No." followed by the number of the zone.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1335; 19 U.S.C. 1309, 81c, 26 U.S.C. 5055)

EXECUTION OF CLAIMS

§ 252.225 Removals of beer by brewer.

Where a brewer removes taxpaid beer from the brewery or from its place of storage elsewhere for exportation, for lading for use as supplies on vessels or aircraft, or for deposit in a foreign-trade zone, he shall execute the notice and claim on Form 1582-B. On removal of the beer for shipment the brewer shall file one copy of Form 1582-B with the assistant regional commissioner of his region, retain one copy for his files, and immediately forward the original and one copy of the form:

(a) In case of shipments for export or for use as supplies on vessels or aircraft, to the collector of customs at the port of export; or

(b) In the case of shipments to the armed services of the United States for export, to the commanding or supply officer to whom the shipment is consigned; or

(c) In the case of shipments to a foreign-trade zone, to the customs officer in charge of the zone.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1335; 19 U.S.C. 1309, 81c, 26 U.S.C. 5055)

§ 252.226 Removals of beer by agent on behalf of brewer.

Where proper power of attorney authorizing an agent to execute a claim on behalf of the brewer has been filed with the assistant regional commissioner, such agent may, for any of the purposes authorized in § 252.221, remove taxpaid beer from the brewery where produced or from its place of storage elsewhere, and execute the notice and claim on Form 1582-B on behalf of the brewer. On removal of the beer, such agent shall dispose of Form 1582-B in accordance with the applicable procedure set forth in § 252.225.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1335; 19 U.S.C. 1309, 81c, 26 U.S.C. 5055)

§ 252.227 Removals of beer by persons other than the brewer or agent of the brewer.

Where there is a removal of taxpaid beer by a person other than the brewer or the agent of the brewer for any of the purposes authorized in § 252.221, such person shall execute the notice, only, on Form 1582-B. Where the removal consists of the products of more than one brewer, separate Forms 1582-B shall be prepared for the products of each brewer. On removal of the beer for shipment such person shall forward two copies of Form 1582-B to the producing brewer, and immediately forward the original and one copy of the form as prescribed in § 252.225 (a), (b), or (c), as the case may be. On receipt of the two copies of Form 1582-B from the exporter, the brewer shall, if he wishes to claim drawback on the beer covered thereby, execute the claim for drawback on both copies of the form, file one copy of the claim with the assistant regional commissioner of his region, and retain the remaining copy for his files.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1335; 19 U.S.C. 1309, 81c, 26 U.S.C. 5055)

CONSIGNMENT, SHIPMENT, AND DELIVERY

§ 252.230 Consignment, shipment, and delivery.

The consignment, shipment, and delivery of taxpaid beer removed under this subpart shall be made under the provisions of Subpart M of this part.

(72 Stat. 1335; 26 U.S.C. 5055)

Subpart M—Shipment or Delivery for Export

CONSIGNMENT

§ 252.241 Shipment for export, or for use on vessels.

All liquors and specially denatured spirits intended for export or liquors intended for use as supplies on vessels shall be consigned to the collector of customs at the port of exportation, or port of lading for supplies on vessels, except that when the shipment is for export to a contiguous foreign territory it shall be consigned to the foreign consignee at destination in care of the collector of customs or deputy collector of customs at the port of export.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

§ 252.242 Shipment for use on aircraft.

(a) *Distilled spirits and wine.* All distilled spirits and wines intended for use on aircraft shall be consigned to the airline at the airport from which the aircraft will depart in international travel, in care of the collector of customs. On receipt of the distilled spirits or wines they shall be stored at the airport under customs custody until laden on aircraft.

(b) *Beer.* Beer intended for use on aircraft shall be consigned to the collector of customs at the port of lading.

(48 Stat. 999, as amended, 72 Stat. 1362, 1380; 19 U.S.C. 1309, 26 U.S.C. 5214, 5362)

§ 252.243 Shipment to armed services.

On removal of distilled spirits, wines, or beer for export to the armed services of the United States, the shipment shall be consigned to the commanding officer or supply officer at the supply base or other place of delivery.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

§ 252.244 Shipment to manufacturing bonded warehouse.

Distilled spirits and wines withdrawn for shipment to a manufacturing bonded warehouse shall be consigned to the proprietor of such warehouse in care of the customs officer in charge of the warehouse.

(72 Stat. 1362, 1380, 1393; 26 U.S.C. 5214, 5362, 5522)

§ 252.245 Shipment to foreign-trade zone.

Where distilled spirits (including specially denatured spirits), wines, or beer, are transferred to a foreign-trade zone for exportation or for storage pending exportation, the shipment shall be consigned to the Zone Operator in care of the customs officer in charge of the zone.

(48 Stat. 999, as amended, 72 Stat. 1362, 1380; 19 U.S.C. 81c, 26 U.S.C. 5214, 5362)

§ 252.246 Delivery for shipment.

The proprietor or exporter may deliver the shipment directly to the consignees designated in §§ 252.241 through 252.245, or he may deliver it to a carrier for transportation and delivery to such consignees, or, when the exportation is to a contiguous foreign country, to the foreign consignee. Where the shipment is delivered to a carrier for transportation and delivery to such consignee, the proprietor or exporter shall procure a copy of the bill of lading covering such transportation.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

§ 252.247 Change in consignee.

Where a change of consignee is desired after the liquors (including specially denatured spirits) have been removed from the shipping premises, the exporter shall notify the appropriate officer to whom the shipment is required by §§ 252.241–252.245 to be consigned or in whose care it is required to be shipped, and forward a copy of such notification to the appropriate assistant regional commissioner. Such notice shall identify the withdrawal or claim form, as the case may be, covering the shipment.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

BILLS OF LADING

§ 252.250 Bills of lading required.

A copy of the export bill of lading covering transportation from the port of export to the foreign destination, or a copy of the through bill of lading to the foreign destination, if so shipped, covering the acceptance of the shipment by a carrier for such transportation, shall be obtained by the exporter and filed with the assistant regional commissioner. Where the shipment consists of distilled spirits or wines to be deposited in a foreign-trade zone with benefit of drawback, and the principal has filed bond, Form 2738, the exporter shall obtain a copy of the transportation bill of lading covering the shipment and file it with the assistant regional commissioner: *Provided,* That such transportation bill of lading will not be required when delivery is made directly to the foreign-trade zone by the shipper. Bills of lading shall be signed by the carrier or by an agent of the carrier and shall contain the following minimum information:

(a) As to spirits, specially denatured spirits, and wines:

(1) The name of the exporter (if different from the shipper),

(2) The name and address of the consignee (foreign consignee in case of export or through bill of lading),

(3) The number of packages or cases,

(4) The serial number of the Form 206, 1582, or 1582–A, as the case may be, and

(5) The total quantity in wine gallons.

(b) As to beer:

(1) The name of the shipper,

(2) The name and address of the consignee (foreign consignee in case of export or through bill of lading), and

(3) The number and size of containers.

Where a copy of an export bill of lading or a copy of the through bill of lading is required and is not obtainable, the exporter or his agent may procure a certificate given by an agent of such carrier, as prescribed in § 252.253, and transmit such certificate to the assistant regional commissioner.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

§ 252.251 Railway express receipts.

Where the exportation is to a contiguous foreign country and the shipment is by railway express, a receipt issued by the railway express agency may be accepted in lieu of an export bill of lading if the receipt furnishes all of the information required in an export bill of lading.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

§ 252.252 Air express or freight bills of lading.

Where the exportation is made by air express or air freight, a bill of lading issued by the conveying airline is considered for the purpose of this part to be an export bill of lading if it otherwise conforms to the requirements of § 252.250.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

§ 252.253 Certificate by export carrier.

A certificate, executed under the penalties of perjury, by an agent or representative of the export carrier, showing actual exportation of the liquors (including specially denatured spirits) may be furnished by an exporter as evidence of exportation. The certificate shall contain a description of the shipment, including the serial number of the withdrawal form, or the claim and entry form, as the case may be, the name of the exporter, the name of the consignee, the date received, the place where received by such carrier, and the name of the carrier from which received.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

Subpart N—Proceedings at Ports of Export

§ 252.261 Notice to collector of customs.

On arrival at the port of exportation, of distilled spirits (including specially denatured spirits), wines, or beer, withdrawn or shipped for exportation or for use on vessels or aircraft, the exporter or his agent shall immediately notify the collector of the port. At the same time, or prior thereto, the exporter or his agent shall file with the collector two copies of the application, claim, or notice, Form 206, 1582, 1582–A, 1582–B, or 1689, as the case may be, covering the shipment: *Provided,* That where the shipment is for direct exportation, such forms shall be filed at least six hours prior to lading.

(46 Stat. 690, as amended, 72 Stat. 1334, 1335, 1336, 1362, 1380; 19 U.S.C. 1309, 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

§ 252.262 Delay in lading at port.

If, on arrival of a shipment withdrawn for export without payment of tax or free of tax, the exporting vessel is not prepared to receive the shipment, the collector of customs may permit such shipment to remain in possession of a carrier for a period not exceeding 30 days. Storage elsewhere for a like cause, and not exceeding the same period, may be approved by the collector of customs. In the event of further delay, the facts shall be reported to the assistant regional commissioner of the region from which the shipment was made, who shall issue appropriate instructions concerning the disposition of the shipment.

(72 Stat. 1334, 1362, 1380; 26 U.S.C. 5053, 5214, 5362)

§ 252.263 Duties of customs officer to be performed by an internal revenue officer.

Where authorized by the collector of customs at the interior port of entry in the case of paragraph (a) of this section, or at the port in which is located the manufacturing bonded warehouse in the case of paragraph (b) of this section, the internal revenue officer at a distilled spirits plant shall perform the duties required, by this subpart, to be performed by a customs officer, in the following instances only:

(a) Where distilled spirits withdrawn without payment of tax, or where distilled spirits bottled or packaged for export with benefit of drawback, are laden at an interior port for exportation through another port; and

(b) Where distilled spirits withdrawn without payment of tax are to be transferred for deposit in a manufacturing bonded warehouse which is contiguous to the distilled spirits plant.

(72 Stat. 1336, 1362, 1380; 26 U.S.C. 5062, 5214, 5362)

§ 252.264 Lading for exportation.

On receipt of the notification required in § 252.261, the collector of customs shall deliver both copies of the application, claim, or notice, Form 206, 1582, 1582–A, 1582–B, or 1689, as the case may be, covering the shipment, together with any forms which may be attached thereto, to a customs officer for inspection and supervision of lading. Such shipment shall be subject to the same requirements for inspection and supervision of lading at the port of exportation as may be required by Customs Regulations (19 CFR Ch. I) in the case of similar shipments of imported merchandise to be exported in customs bond. When an inspection of the shipment is made before it is laden on board the exporting carrier and such inspection discloses any discrepancy, the customs officer shall make note of the nature and extent of the discrepancy on each copy of the application, claim, or notice, Form 206, 1582, 1582–A, 1582–B, or 1689, as the case may be, and where the discrepancy involves one or more packages of distilled spirits, he shall make a gauge of each such package on Form 696.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

§ 252.265 Evidence of fraud.

If the customs inspection discloses evidence of fraud, the customs officer shall detain the merchandise and notify the collector of customs who shall report the facts forthwith to the assistant regional commissioner within whose region the port of export is located. The assistant regional commissioner shall make investigation and take such action as the facts may warrant. Where the detained merchandise has been withdrawn for transfer and deposit in a manufacturing bonded warehouse, the merchandise shall be deemed not to have been deposited in said warehouse, and the designated officer shall hold in abeyance the processing of Form 206 until advised by the collector of customs that the detained merchandise may be entered for deposit. Where the detained merchandise has been withdrawn or entered for deposit in a foreign-trade zone, it shall be deemed to not have been deposited in the zone and the customs officer shall hold in abeyance the processing of the application, notice, or claim, Form 206, 1582, 1582–A, 1582–B, or 1689, as the case may be, and Zone Form D, until advised by the collector of customs that the detained merchandise may be entered for deposit.

(48 Stat. 999, as amended, 72 Stat. 1334, 1335, 1336, 1362, 1380, 1393; 19 U.S.C. 81c, 26 U.S.C. 5053, 5055, 5062, 5214, 5362, 5522)

§ 252.266 Release of detained merchandise.

When any merchandise has been detained under the provisions of § 252.265, the collector of customs shall not release such merchandise until he is advised so to do by the assistant regional commissioner.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

§ 252.267 Exportation from interior port.

Where a shipment made under this part is to be exported to a contiguous foreign country through a frontier port, and it is desired to avoid the delay of customs inspection at such port, the shipment may be entered for exportation at an interior customs port. The inspection and supervision of lading, and the affixing of customs seals, shall be done by a customs officer in accordance with the provisions of Customs Regulations (19 CFR Ch. I): *Provided*, That where, under the provisions of § 252.263, an internal revenue officer has been authorized to perform such duties, the internal revenue officer shall perform the duties of the customs officer. On completion of the lading, the designated officer shall affix the seals, execute the certificate of lading on both copies of the application, notice, or claim, Form 206, 1582, 1582–A, 1582–B, or 1689, as the case may be, and forward them, with attachments (if any), to the collector of customs at the interior port of entry. The collector shall forward both copies of the form, with attachments (if any), to the customs officer at the frontier port. When the customs officer at the frontier port is satisfied that the shipment as described on the appropriate form has been exported, he shall execute his certificate on both copies of the form and return them with attachments (if any), to the collector of customs at the interior port of entry.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

§ 252.268 Receipt for liquors for use on vessels or aircraft.

Where liquors are withdrawn or removed for use on vessels or aircraft, the exporter shall procure and forward to the asistant regional commissioner a receipt executed under the penalties of perjury by the master or other authorized officer of the vessel, steamship company, or airline, as the case may be. The receipt shall give the number of containers, the serial numbers of the containers (if any), and the quantity received, and shall show that the liquors are in customs custody and have been or will be laden on board the vessel or aircraft, that they will be lawfully used on board the vessel or aircraft, and that no portion of the shipment has been or will be unladen in the United States or any of its territories or possessions. A receipt is not required, in the case of any shipment for use on vessels, when the liquors are laden on vessels of war, or, in cases other than supplies for vessels employed in the fisheries, where the amount of the tax on the liquors does not exceed $200. In the case of supplies for vessels employed in the fisheries, compliance with the provisions of § 252.22 is also required.

(46 Stat. 690, as amended, 72 Stat. 1334, 1335, 1336, 1362, 1380; 19 U.S.C. 1309, 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

§ 252.269 Certification by collector of customs.

(a) *Exportation.* When the collector of customs is satisfied that merchandise described on the application, notice, or claim, Form 206, 1582, 1582–A, 1582–B, or 1689, as the case may be, has been laden and cleared for export, he shall execute his certificate of lading and clearance on both copies of the form.

(b) *Distilled spirits and wines as supplies on vessels and aircraft.* When the collector of customs is satisfied that the distilled spirits and wines described on Form 206, 1582, or 1582–A, as the case may be, have been duly laden for use on vessels and aircraft, and that proper accounting for such spirits or wines has been submitted to him as required by this part, he shall execute his certificate of lading for use on both copies of the form.

(c) *Disposition of forms.* After executing his certificate, the collector of customs shall forward the original of Form 206, 1582, 1582–A, 1582–B, or 1689, as the case may be, with attachments (if any), to the assistant regional commissioner designated on the form, and retain the remaining copy, with any attached forms, for his files.

(46 Stat. 690, as amended, 72 Stat. 1334, 1335, 1336, 1362, 1380; 19 U.S.C. 1309, 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

RECEIPT BY ARMED SERVICES

§ 252.275 **Receipt by armed services.**

When liquors which have been withdrawn or removed for export to the armed services of the United States are received at the supply base or other designated place of delivery, the officer to whom consigned, or other authorized supply officer, at the supply base or other place of delivery shall enter the quantity of liquors received on both copies of the application, notice, or claim, Form 206, 1582, 1582–A, 1582–B, or 1689, as the case may be. After signing the form, he shall forward the original with attachments, if any, to the assistant regional commissioner designated on the form, and retain the other copy for his records.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

LADING FOR USE ON AIRCRAFT

§ 252.280 **Distilled spirits and wines.**

When an airline desires to withdraw distilled spirits or wines from its stock being held at the airport under customs custody, for use on a particular aircraft, a requisition in triplicate shall be prepared for presentation to the customs officer. The requisition shall show the flight number, the registry number of the aircraft on which the distilled spirits or wines are to be laden, the country for which the aircraft is to be cleared, the date of departure of the aircraft, and the brand, kind, and quantity of distilled spirits or wines. Where the distilled spirits or wines are contained in kits which have been previously prepared while under customs custody, the kit number shall also be shown on the requisition. Where the kits are not prepared and the distilled spirits or wines are withdrawn for direct lading on aircraft, the requisition shall be serially numbered in lieu of the insertion of the kit number. When the distilled spirits or wines are withdrawn and laden aboard the aircraft, the lading shall be verified by the customs officer by an appropriate stamp or notation on the requisition. One copy of the requisition shall be retained by the customs officer who certifies to the lading for attachment to the outgoing manifest. The other two copies shall be delivered to the airline which shall retain both copies until the return of the flight. In case any of the distilled spirits or wines are removed from the aircraft on its return, they shall be returned to customs custody, appropriate notation made on both copies of the requisition retained by the airline and one copy shall be delivered to the customs officer for attachment to the incoming manifest. The remaining copy shall be retained by the airline.

(46 Stat. 690, as amended, 72 Stat. 1336, 1362, 1380; 19 U.S.C. 1309, 26 U.S.C. 5062, 5214, 5362)

§ 252.281 **Certificate of use for distilled spirits and wines.**

When all of the distilled spirits or wines represented by a single application, notice, or claim, Form 206, 1582, or 1582–A, as the case may be, have been withdrawn from customs custody and laden and used on aircraft, the airline shall prepare a certificate of use on which are itemized all the requisitions pertaining to such distilled spirits or wines. The certificate shall be executed under the penalties of perjury by an officer of the airline and shall show the name of the exporter, the entry number, the brand and kind of distilled spirits or wines, and the number of bottles to be accounted for; and, as to each requisition, the requisition (or kit) number, the date laden, the registry number of the aircraft, the country for which the aircraft was cleared, and the number of bottles used. When completed, the certificate shall be presented to the customs officer at the airport who shall than execute his certificate on both copies of the appropriate application, notice, or claim, Form 206, 1582, or 1582–A, as the case may be, noting thereon any exception, such as shortages or breakage. The customs officer shall then attach the certificate of use to the copy of the appropriate form and forward both copies of the form to the collector of customs.

(46 Stat. 690, as amended, 72 Stat. 1336, 1362, 1380; 19 U.S.C. 1309, 26 U.S.C. 5062, 5214, 5362)

§ 252.282 **Beer.**

When beer has been laden on board the aircraft for use as supplies, the customs officer shall execute his certificate on both copies of the Form 1582–B or Form 1689, as the case may be, forward the original to the assistant regional commissioner designated on the form, and retain the copy for his files.

(46 Stat. 690, as amended, 72 Stat. 1334, 1335; 19 U.S.C. 1309, 26 U.S.C. 5053, 5055)

RECEIPT IN MANUFACTURING BONDED WAREHOUSE

§ 252.285 **Receipt in manufacturing bonded warehouse.**

On receipt of the distilled spirits or wines and the related Form 206 (and Form 2630, if any), the customs officer in charge of the manufacturing bonded warehouse shall make such inspection as is necessary to establish to his satisfaction that the shipment corresponds with the description thereof on Form 206 (and Form 2630, if any), and shall make a report of his gauge on Form 696, in duplicate: *Provided*, That where, under the provisions of § 252.263, an internal revenue officer has been authorized to perform the duties of the customs officer, the internal revenue officer shall perform such duties. Where his inspection and gauge discloses any discrepancy, the designated officer shall make note of such discrepancy on each copy of Form 206. Where the officer is satisfied that the shipment corresponds with the description on Form 206 (and Form 2630, if any), he shall execute his certificate of deposit on both copies of Form 206, and forward the original of Forms 206 and 696, and a copy of Form 2630 (if any), to the assistant regional commissioner. He shall retain the remaining copies for his files.

(72 Stat. 1362, 1380, 1393; 26 U.S.C. 5214, 5362, 5522)

RECEIPT IN FOREIGN-TRADE ZONE

§ 252.290 **Receipt in foreign-trade zone.**

On receipt at the zone, the shipment shall be inspected by the customs officer in charge of the zone who shall determine if the shipment agrees with the description thereof on the application, notice, or claim, Form 206, 1582, 1582–A, 1582–B, or 1689, as the case may be. Where, with respect to distilled spirits or wines, the customs officer deems it necessary to make a regauge of such spirits or wines, he shall make such regauge on Form 696, in duplicate. The customs officer shall note on both copies of the Form 206, 1582, 1582–A, 1582–B, or 1689, as the case may be, any deficiency in quantity or discrepancy between the merchandise inspected or gauged and that described in the form. Where the inspection or gauge discloses no loss, or where a loss is disclosed by such inspection or gauge and there is no evidence to indicate fraud, the officer shall execute his certificate on both copies of the form covering the deposit, and forward to the assistant regional commissioner the following:

(a) Original of the deposit form;
(b) Original of Form 696, if any; and
(c) Copy of Form 2630, if any.

The remaining copy of the deposit form, and of any other form, shall be retained by the customs officer for his files.

(48 Stat. 999, as amended, 72 Stat. 1336, 1362, 1380; 19 U.S.C. 81c, 26 U.S.C. 5062, 5214, 5362)

Subpart O—Losses

DISTILLED SPIRITS

§ 252.301 **Loss of distilled spirits in transit.**

The tax on distilled spirits withdrawn without payment of tax under this part and which are lost during transportation from the bonded premises of the distilled spirits plant from which withdrawn to (a) the port of export, (b) the manufacturing bonded warehouse, (c) the vessel or aircraft, or (d) the foreign-trade zone, as the case may be, may be remitted if evidence satisfactory to the assistant regional commissioner establishes that such distilled spirits have not been unlawfully diverted, or lost by theft with connivance, collusion, fraud, or negligence on the part of the exporter, owner, consignor, consignee, bailee, or carrier or the employees or agents of any of them: *Provided*, That such remission in the case of loss of distilled spirits by theft shall only be allowed to the extent that the claimant is not indemnified against or recompensed in respect of the tax for such loss.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 252.302 **Notice to exporter.**

If, on examination of the Form 206 (and attached gauge reports, if any) received from the officer required to certify the same under the provisions of Subpart N of this part, the assistant regional commissioner is of the opinion that the distilled spirits reported lost had been unlawfully diverted, or had been lost by theft, he will advise the exporter by letter:

(a) Of the identity of the containers;

(b) Of the amount of the loss;

(c) Of the circumstances indicating diversion or theft;

(d) That allowance of the loss will be subject to filing (1) proof that such loss is allowable under the provisions of section 5008 (a) and (f), I.R.C., and (2) claim for remission of the tax on the spirits so lost; and

(e) That action in respect of the loss will be withheld for a period of not more than 30 days to afford an opportunity to file such proof and claim.

In any case in which distilled spirits are lost during transportation, as described in § 252.301, whether by theft or otherwise, the assistant regional commissioner may require the exporter to file a claim for relief in accordance with § 252.303. When circumstances may warrant, extensions of additional time for submission of the proof and claim may be granted by the assistant regional commissioner. Where such proof and claim are not filed within the 30-day period, or such extensions as the assistant regional commissioner may grant, the tax on the distilled spirits diverted or lost will be assessed, or liability asserted against the bond covering the shipment, as the case may be.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 252.303 Filing of claims.

Claims, for remission of tax on the distilled spirits under § 252.301, shall be filed on Form 2635, in duplicate, with the assistant regional commissioner, and shall set forth the following:

(a) Name, address, and capacity of the claimant;

(b) Identification (including serial numbers, if any) and location of the container or containers from which the spirits were lost;

(c) Quantity of spirits lost from each container, and the total quantity of spirits covered by the claim;

(d) Total amount of tax for which the claim is filed;

(e) The date, penal sum, and form number of the bond under which withdrawal and shipment were made;

(f) Name, number, and address of the distilled spirits plant from which withdrawn without payment of tax;

(g) Date of the loss (or, if not known, date of discovery), the cause thereof, and all the facts relative thereto;

(h) Name of the carrier;

(i) If lost by theft, facts establishing that the loss did not occur as the result of any connivance, collusion, fraud, or negligence on the part of the exporter, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them;

(j) In the case of a loss by theft, whether the claimant is indemnified or recompensed in respect of the tax on the spirits lost, and, if so, the amount and nature of such indemnity or recompense and the actual value of the spirits, less the tax.

The claim shall be executed by the exporter or his authorized agent under the penalties of perjury, and shall be supported (whenever possible) by affidavits of persons having personal knowledge of the loss. The assistant regional commissioner may require such further evidence as he deems necessary.

(68A Stat. 749, 72 Stat. 1323; 26 U.S.C. 6065, 5008)

§ 252.304 Action on claim.

The assistant regional commissioner will allow or disallow claims filed under § 252.303 in accordance with existing law and regulations. If the assistant regional commissioner finds that there has been a diversion or theft of the distilled spirits as the result of any connivance, collusion, fraud, or negligence on the part of the exporter, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them, the tax on the distilled spirits diverted or lost by theft will be assessed, or liability asserted against the bond covering the shipment, as the case may be.

(68A Stat. 867, 72 Stat. 1323; 26 U.S.C. 7302, 5008)

Specially Denatured Spirits

§ 252.310 Loss of specially denatured spirits in transit.

Losses of specially denatured spirits withdrawn free of tax under this part during transportation from the bonded premises of the distilled spirits plant from which withdrawn to (a) the port of export, or (b) the foreign-trade zone, as the case may be, may be allowed if evidence satisfactory to the assistant regional commissioner establishes that such specially denatured spirits have not been unlawfully diverted, or lost by theft as the result of any connivance, collusion, fraud, or negligence on the part of the exporter, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them. The giving of notice to the exporter, filing claims for allowance of loss, and action on the claims shall be, insofar as applicable, in accordance with the procedure prescribed in §§ 252.302 through 252.304.

Wine

§ 252.315 Loss of wine in transit.

The tax on wines withdrawn without payment of tax under this part and which are lost during transportation from the bonded wine cellar from which withdrawn to (a) the port of export, (b) the vessel or aircraft, (c) the foreign-trade zone, or (d) the manufacturing bonded warehouse, as the case may be, may be remitted if evidence satisfactory to the assistant regional commissioner establishes that such wines have not been unlawfully diverted, or lost by theft with connivance, collusion, fraud, or negligence on the part of the exporter, owner, consignor, consignee, bailee, or carrier or the employees or agents of any of them: *Provided*, That the remission of tax on wine withdrawn without payment of tax under this part and which is lost while in transit may be allowed only to the extent that the claimant is not indemnified or recompensed for such tax.

(72 Stat. 1381, 1382; 26 U.S.C. 5370, 5371)

§ 252.316 Notice to exporter.

If, on examination of the Form 206 received from the officer required to certify the same under the provisions of Subpart N, the assistant regional commissioner is of the opinion that wine reported lost had been unlawfully diverted, or had been lost by theft, he will advise the exporter by letter:

(a) Of the identity of the containers;

(b) Of the amount of the loss;

(c) Of the circumstances indicating diversion or theft;

(d) That allowance of the loss will be subject to filing (1) proof that such loss is allowable under the provisions of section 5370, I.R.C., and (2) claim for remission of the tax on the wine so lost; and

(e) That action in respect of the loss will be withheld for a period of not more than 30 days to afford an opportunity to file such proof and claim.

In any case in which wines are lost during transportation, as described in § 252.315, whether by theft or otherwise, the assistant regional commissioner may require the exporter to file a claim for relief in accordance with § 252.317. Where circumstances may warrant, extensions of additional time for submission of the proof and claim may be granted by the assistant regional commissioner. Where such proof and claim are not filed within the 30-day period, or such extensions as the assistant regional commissioner may grant, the tax on the wine diverted or lost will be assessed, or liability asserted against the bond covering the shipment, as the case may be.

(72 Stat. 1381; 26 U.S.C. 5370)

§ 252.317 Filing of claims.

Claims, for remission of tax on the wine under § 252.315, shall be filed on Form 2635, in duplicate, with the assistant regional commissioner, and shall set forth the following:

(a) The name, address, and capacity of the claimant;

(b) The name, registry number, and location of the bonded wine cellar from which the wine was withdrawn;

(c) The date, penal sum, and form number of the bond under which withdrawal and shipment was made;

(d) Identification (including serial numbers, if any) and location of the container or containers from which the wine was lost;

(e) The quantity of wine lost from each container, and the total quantity of wine covered by the claim;

(f) The total amount of tax for which the claim is filed;

(g) The date of the loss (or, if not known, date of discovery), the cause thereof, and all the facts relative thereto;

(h) Name of the carrier;

(i) If lost by theft, the facts establishing that the loss did not occur as the result of any connivance, collusion, fraud, or negligence on the part of the exporter, owner, consignor, consignee, bailee, or carrier, or the agents or employees of any of them; and

(j) Whether the claimant is indemnified or recompensed in respect of the tax on the wine lost, and, if so, the amount and nature of such indemnity or recompense and the actual value of the wine, less the tax.

The claim shall be signed by the exporter or his authorized agent under the penalties of perjury, and shall be supported (whenever possible) by affidavits of persons having personal knowledge of the loss. The assistant regional commissioner may require such further evidence as he deems necessary.

(68A Stat. 749, 72 Stat. 1381, 1382; 26 U.S.C. 6065, 5370, 5371)

§ 252.318 Action on claim.

Action on claims filed under § 252.317 shall be, insofar as applicable, in accordance with the procedure prescribed in § 252.304.

(72 Stat. 1381; 26 U.S.C. 5370)

BEER

§ 252.320 Loss of beer in transit.

When, on receipt by the assistant regional commissioner of Form 1689 from the officer required to certify it under the provisions of Subpart N, it is disclosed that there has been a loss of beer after removal from the brewery without payment of tax and while in transit to (a) the port of export, (b) the vessel or aircraft, or (c) the foreign-trade zone, as the case may be, and the report of the certifying officer shows that such loss was a normal one caused by casualty, leakage, or spillage, the assistant regional commissioner will allow the loss. Where it is disclosed that the loss is large or unusual, the assistant regional commissioner shall conduct an investigation of the loss. Where the investigation discloses that the loss in transit has occurred by reason of casualty, leakage, or spillage, credit for the loss will be allowed. Where the investigation discloses evidence indicating that the loss resulted from theft or from fraud, the assistant regional commissioner will afford the brewer opportunity to submit a written explanation with respect to the causes of such loss before taking further action.

(72 Stat. 1333, 1334, 1335; 26 U.S.C. 5051, 5053, 5056)

§ 252.321 Tax assessed on loss not accounted for.

Where a loss of beer in transit, as described in § 252,320, has not been explained to the satisfaction of the assistant regional commissioner, an assessment shall be made against the brewer in a sufficient amount to cover the tax on the quantity of beer not satisfactorily accounted for.

(72 Stat. 1333, 1334; 26 U.S.C. 5051, 5053)

Subpart P—Action on Claims

§ 252.331 Claims supported by bond, Form 2738.

On receipt from the proprietor or exporter 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 § 252.40, or of lading for use on vessels or aircraft required by § 252.41, or of deposit in a foreign-trade zone required by § 252.42, as the case may be, the assistant regional commissioner shall, if a good and sufficient bond has been filed as provided in § 252.65, 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 spirts 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, the certificate of tax determination, Form 2605, the assistant regional commissioner shall give appropriate credit to the bond.

(46 Stat. 690, 691, as amended, 48 Stat. 999, as amended, 72 Stat. 1336; 19 U.S.C. 1309, 1311, 81c, 26 U.S.C. 5062)

§ 252.332 Claim against bond.

Where any claim supported by a bond has been allowed and charged against the bond under the provisions of § 252.331, 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 assistant regional commissioner 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 assistant regional commissioner 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 assistant regional commissioner within 30 days of the date of such notice, a written demand will be made upon the principal and the surety for repayment to the United States of the full amount of such drawback, plus interest at the rate of 6 percent from the time the drawback is paid: *Provided,* That the assistant regional commissioner may, where in his opinion the circumstances warrant it, grant the claimant such additional extension of time beyond 30 days as may be necessary to accomplish the required filing.

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

§ 252.333 Where no bond is filed.

Where a claim for drawback of tax on distilled spirits or wines on Form 1582, Form 1582-A, or Form 1629, is not supported by a bond on Form 2738, and in all cases where claim for drawback of tax on beer is made on Form 1582-B, the assistant regional commissioner 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 § 252.40, or of lading for use on vessels or aircraft required by § 252.41, or of deposit in a foreign-trade zone required by § 252.42, as the case may be, and, in the case of claims on Form 1582-A, the certificate of tax determination, Form 2605, allow the claim in the amount of the tax paid on the beer or the tax paid or determined on the distilled spirits or wines on which the claim is based and which were exported, laden as supplies on vessels or aircraft, or deposited in a foreign-trade zone, as the case may be.

(46 Stat. 690, 691, as amended, 48 Stat. 999, as amended, 72 Stat. 1327, 1335, 1336; 19 U.S.C. 1309, 1311, 81c, 26 U.S.C. 5009, 5055, 5062)

§ 252.334 Credit allowance.

Where the claimant has indicated that he desires the amount of drawback allowed to be credited against internal revenue taxes determined by him but not yet paid, the assistant regional commissioner shall prepare Form 2639, in triplicate, and forward the original to the claimant. Where the credit relates to tax determined distilled spirits, procedure for taking the credit shall be in accordance with the procedures set forth in Part 201 of this chapter. Where the credit relates to tax-determined wines, procedure for taking the credit shall be in accordance with the procedures set forth in Part 240 of this chapter. No credit may be given for drawback of the tax on beer nor may one class of tax be credited to another.

(72 Stat. 1327, 1336; 26 U.S.C. 5009, 5062)

§ 252.335 Disallowance of claim.

If a claim for drawback of tax is not allowed in full, the assistant regional commissioner shall notify the claimant in writing of the reasons for any disallowance.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1327, 1335, 1336; 19 U.S.C. 1309, 81c, 26 U.S.C. 5009, 5055, 5062)

[F.R. Doc. 60-5786; Filed, June 22, 1960; 8:51 a.m.]

Title 7—AGRICULTURE

Chapter VII—Commodity Stabilization Service (Farm Marketing Quotas and Acreage Allotments), Department of Agriculture

PART 718—DETERMINATION OF ACREAGE AND PERFORMANCE

Methods of Measurement

On pages 3338 and 3339 of the FEDERAL REGISTER of April 16, 1960, there was published a notice of proposed rule making to issue an amendment to the regulations governing the determination of acreage and performance. Interested persons were given 15 days in which to submit written comments, suggestions, or objections with respect to the proposed amendment of the regulations.

No objections have been received and comments submitted do not require a revision of the proposal.

The proposed amendment to the regulations is hereby adopted without change and shall become effective beginning with the determination of acreages for crops planted for harvest in 1961. No allotment or history acreage for any allotment crop or any soil bank base, which was established on the basis of acreages determined prior to the effectiveness of this amendment, would be adjusted because of the amendment.

Issued at Washington, D.C., this 17th day of June 1960.

ANDREW J. MAIR,
Acting Administrator,
Commodity Stabilization Service.

Section 718.5 (e) and (g)(1) is amended to read as follows:

§ 718.5 Methods of measurement.

* * * * *

(e) *Effect of planting pattern on determination of acreage*—(1) *General.* In determining the acreage of any row crop, measurements shall extend beyond the planted area to a point equal to one-half the distance between the rows. All acreage determinations made in accordance with this paragraph (e) are subject to the deductions and adjustment credit prescribed in paragraphs (g) and (h) of this § 718.5. When an allotment row crop other than tobacco and another allotment row crop or an allotment row crop and a competitive row crop are planted in alternate rows or in strips of two or more rows, the acreage shall be considered as intertilled. For the purpose of determining the acreage of tobacco, other intertilled crops shall not be considered competitive with tobacco and the intertilled provisions of this paragraph (e) shall not apply. When an allotment row crop is planted in alternate rows or strips with non-competitive crops or in alternate rows or strips with idle or fallow land, the acreage shall be considered as fallow-stripped. In the application of the provisions of this paragraph (e), deviations from prescribed row width requirements attributable to variations which are normal to the operation of mechanical equipment shall not serve to disqualify a planting pattern or a deductible strip.

(2) *Block or solid planted allotment row crops.* When an allotment row crop is planted in a continuous area and intertilled or fallow-stripped planting is not involved, the acreage of such crop shall be the area devoted to the crop.

(3) *Close-seeded allotment crops.* The acreage of close-seeded allotment crops shall be the acreage in the area devoted to the crop.

(4) *Non-allotment soil bank base crops and other land uses.* The acreage of non-allotment soil bank base crops or other land uses shall be the acreage in the area devoted to the crops or land use except that when non-allotment soil bank base crops are planted in alternate rows, alternate strips, or fallow strips with idle or fallow land or non-soil bank base crops, the entire area shall be considered as planted to the soil bank base crop(s) unless the area composed of idle or fallow land or non-soil bank base crops is as wide as four normal rows of the soil bank base crop(s). If the area composed of idle or fallow land or non-soil bank base crop(s) is as wide as four normal rows of the soil bank base crop(s), only the land actually occupied by the soil bank base crop(s) shall be considered as planted to soil bank base crop(s). Where allotment crops are intertilled or fallow-stripped with non-allotment soil bank base crops and the entire area is considered as planted to allotment crops, the acreage shall be counted only once in determining the acreage of soil bank base crops.

(5) *Intertilled allotment row crops other than tobacco*—(i) *Intertilled alternate rows.* Acreages of crops intertilled in alternate rows shall be determined as follows:

(*a*) *Normal rows.* If the distance between each row of the crops planted is not less than the normal row width for the allotment crop (the wider normal row if two allotment crops are involved), only the land actually occupied by the allotment crop shall be considered as planted to the allotment crop.

(*b*) *Less than normal rows.* If the distance between the rows of the crops planted is less than the normal row width for the allotment crop, the entire intertilled area shall be considered as planted to the allotment crop.

(ii) *Intertilled alternate strips.* Acreages of crops intertilled in alternate strips shall be determined as follows:

(*a*) *Less than one normal row.* If the distance between the strips of the allotment crop is less than one normal row width, the entire area shall be considered as planted to the allotment crop.

(*b*) *Less than four normal rows.* If the distance between the strips of the allotment crop is as wide as one but less than four normal rows of the allotment crop, the acreage of the allotment crop shall be the total acreage in the area less the acreage actually occupied by any competitive crop.

(*c*) *Four normal rows or more.* If the distance between the strips of the allotment crop is as wide as or wider than four normal rows of the allotment crop, only the area occupied by the allotment crop shall be considered as planted to the allotment crop.

(6) *Fallow-stripped allotment row crops including tobacco.* Acreages of fallow-stripped row crops, including tobacco, shall be determined as follows:

(i) *Less than four normal rows.* If the strips of idle land, fallow land, non-competitive crop(s), or a combination thereof are not as wide as four normal rows of the allotment crop, the entire area shall be considered as planted to the allotment crop.

(ii) *Four normal rows or more.* If the strips of idle land, fallow land, non-competitive crop(s), or a combination thereof are at least as wide as four normal rows of the allotment crop, only the land actually occupied by the allotment crop shall be considered as planted to the allotment crop, except that individual strips which are not as wide as four normal rows shall be considered as planted to the allotment crop.

* * * * *

(g) *Deductions*—(1) *General.* In determining the acreage of any field or subdivision, a deduction shall be made for any continuous area not devoted to the crop or land use being determined if it contains three-hundredths (0.03) acre or more and is not less than (i) the smaller of four links or one row in width in case of a deduction around the perimeter of the field or (ii) one row in width in case of a deduction within the planted area, except that a deduction shall not be made under this provision for intertilled plantings, fallow-strip arrangements, or unplanted strips, utilized for dusting, irrigating, harvesting, or similar cultural operations, which do not qualify under paragraph (e) of this section. The deductions specified herein are minimum deductions and are subject to the provisions of § 718.15.

[F.R. Doc. 60-5784; Filed, June 22, 1960; 8:51 a.m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

PART 966—MILK IN NORTHERN LOUISIANA MARKETING AREA

Order Suspending Certain Provision

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Northern Louisiana marketing area (7 CFR Part 966), it is hereby found and determined that:

(a) The following provision of § 966.51(a) of the order will not tend to effectuate the declared policy of the Act until the order can be amended on the basis of the evidence presented at a public hearing held April 19 and 20, 1960: "Through June 30, 1960".

(b) Notice of proposed rule making, public procedure thereon, and 30 days notice of effective date hereof are impractical, unnecessary, and contrary to the public interest in that:

(1) This suspension order is necessary in view of the order provision which terminates the Class I price as of June 30, 1960. The Class I price was considered at a hearing held at Shreveport, Louisiana, on April 19 and 20, 1960. Evidence on the record indicates that the annual level of Class I prices provided in the order is appropriate in the immediate months ahead and should accordingly be maintained until amendment action can be taken.

(2) The time required for the performance of the several procedural steps which must be followed before an amendment can be issued, precludes the possibility of making an amendment to the order effective before the termination date of June 30, 1960.

(3) There would be no Class I price, and the pricing and pooling provisions of the order would become inoperative, unless this suspension order is made effective July 1, 1960.

(4) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(5) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date. Therefore, good cause exists for making this order effective July 1, 1960.

It is therefore ordered, That the aforesaid provision of the order is hereby suspended effective July 1, 1960.