

§ 601.18 Office of Administration.

This office is responsible for administrative management of the Agency and for providing support to all of its components. This includes all personnel, budget, fiscal, supply, security, communications and general administrative activities. The office maintains regular liaison with the Department of State and other organizations providing services for the agency.

Dated: March 27, 1978.

JAMES T. HACKETT,  
Administrative Director.

[FR Doc. 78-8470 Filed 3-30-78; 8:45 am]

[4210-01]

Title 24—Department of Housing and Urban Development

CHAPTER II—ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER

[Docket No. R-78-522]

Miscellaneous Corrections

AGENCY: Office of Management, Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Corrections.

SUMMARY: This rule corrects various errors now contained in 24 CFR Chapter II, revised as of April 1, 1977.

EFFECTIVE DATE: March 31, 1978.

FOR FURTHER INFORMATION CONTACT:

June Sheehan, Office of Management, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-6623.

24 CFR Chapter II is corrected as follows:

§ 200.25 [Amended]

1. In Part 200, § 200.25(a) on page 238, lines 11, 12 and 13, delete the words "Atomic Energy Commission" and letters "AEC" and substitute "Energy Research and Development Administration" and letters "ERDA".

2. In Part 200, Subpart S, Appendix on page 288, second column, lines 1, 2, 3, and 4 should be corrected to read:

Resilient flooring:  
Asphalt tile (Type I) ..... FS SS-T-312A  
Vinyl tile (Type II) ..... FS SS-T-312A  
Linoleum ..... FS LLL-F-1238A

§ 203.400 [Amended]

3. In Part 203, Section 203.400, page 357 last line of column 1, should be deleted and replaced with the words, "claim shall be paid by issuing debentures".

4. In Part 203, Subpart C, "Authority", page 368, top of second column,

third line, "1716B" should be "1715(a)."

§ 233.505 Incorporation by reference.

5. In Part 233, Section 233.505(a)(2)(i) on page 588, bottom of first column, the first five lines should be corrected to read as follows:

"(i) In cases involving new construction, such percentage shall be applied to the Commissioner's estimate of the cost of replacing the property using comparable conventional design, materials."

6. In Part 880, Page 414, delete reference at top left of page to § 881.101 and replace with § 880.101.

7. In Parts 880, 881, and 883, all references to all Appendices should be deleted.

§ 880.110 [Amended]

8. In Part 880, Section 880.110(b)(1) on Page 420, the fifth line, delete the word "on" and replace with the word "and".

§ 882.110 [Amended]

9. In Part 882, Section 882.110(d), on Page 486, Line 1, "21(d)(3)" should be corrected to read "221(d)(3)".

§ 891.302 [Amended]

10. In Part 891, Section 891.302(a), on page 611, on the 14th line, "tions" should be corrected to read "conditions".

AUTHORITY: Sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., March 29, 1978.

LAWRENCE B. SIMONS,  
Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 78-8663 Filed 3-30-78; 8:45 am]

[4310-02]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER D—SOCIAL WELFARE

PART 20—FINANCIAL ASSISTANCE AND SOCIAL SERVICES PROGRAM

MARCH 24, 1978.

AGENCY: Bureau of Indian Affairs.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs is amending its regulations relating to financial assistance and social services program. The purpose of this amendment is to insure provision of financial assistance under this part within the absolute limit imposed by appropriated funds.

EFFECTIVE DATE: This amendment shall become effective May 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Raymond V. Butler, Chief, Division of Social Services, Bureau of Indian Affairs, 1951 Constitution Avenue NW., Washington, D.C. 20245, 202-343-7911; principal author, Raymond V. Butler.

SUPPLEMENTARY INFORMATION:

It is generally the policy of the Department of the Interior to allow time for interested persons to take part in the rulemaking process. However, this amendment is entirely administrative in nature. The public rulemaking process is dispensed with under the exception provided in 5 U.S.C. 553(b)(B)(1970).

This amendment is made pursuant to the authority vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

Subchapter D, Chapter 1, Title 25 of the Code of Federal Regulations is hereby amended as follows:

Part 20, § 20.1(s) is amended by adding the following phrase to the end of the existing section:

§ 20.1 Definitions.

(s) \* \* \* except that Bureau use of these established basic item/special item cost standards may be waived by the Assistant Secretary—Indian Affairs when required to insure provision of a level of financial assistance not exceeding the absolute limit of appropriated funds.

No further changes are made to Subchapter D.

These regulations will be effective May 1, 1978.

NOTE.—The Bureau of Indian Affairs has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

FORREST J. GERARD,  
Assistant Secretary—Indian Affairs.

[FR Doc. 78-8549 Filed 3-30-78; 8:45 am]



[4830-01]

## Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE  
SERVICE, DEPARTMENT OF THE  
TREASURYSUBCHAPTER D—MISCELLANEOUS EXCISE  
TAXES

[T.D. 7536]

PART 48—MANUFACTURERS AND  
RETAILERS EXCISE TAXESSpecial Provisions Applicable to Re-  
tailers Excise Tax and to Manufac-  
turers Excise TaxAGENCY: Internal Revenue Service,  
Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to special provisions applicable to manufacturers and retailers excise taxes. Permanent regulations have not previously been issued under most of the sections of the Internal Revenue Code of 1954 discussed in this document. These regulations provide necessary guidance to the public for compliance with the law, and they affect all persons required to pay retailers or manufacturers excise taxes.

DATE: The regulations are generally effective for sales made after December 31, 1958.

FOR FURTHER INFORMATION  
CONTACT:

Jonathan P. Marget of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3323).

## SUPPLEMENTARY INFORMATION:

## BACKGROUND

On November 3, 1976, the FEDERAL REGISTER published proposed amendments to the Manufacturers and Retailers Excise Tax Regulations (26 CFR Part 48) under sections 4054 through 4058, 4216, 4217, 4218, and 4221 through 4227 of the Internal Revenue Code of 1954, 41 FR 48346. The amendments were proposed primarily to supersede all manufacturers excise tax regulations issued under the Internal Revenue Code of 1939 that had not previously been superseded by regulations issued under the 1954 Code. A public hearing was held on April 22, 1977. After consideration of all comments regarding the proposed amendments, those amendments, except for the amendments relating to constructive sale price for manufactur-

ers excise tax purposes, are adopted as revised by this Treasury decision. The proposed amendments relating to constructive sale price are being given further consideration, and those amendments will be published later.

WITHDRAWAL AND DELETION OF SEC-  
TIONS MERELY REPRODUCING STATU-  
TORY MATERIAL AND DELETION OF OB-  
SOLETE MATERIAL

As part of the effort to reduce the bulk of the Code of Federal Regulations, those sections of the proposed regulations which merely reproduced various provisions of the Internal Revenue Code are withdrawn. For the same reason, several such sections are deleted from the Code of Federal Regulations by this document.

In addition, this document deletes many provisions that apply only to taxes repealed by the Excise Tax Reduction Act of 1965.

The regulations reflect some changes in codification made by the Tax Reform Act of 1976.

## EXEMPTION CERTIFICATES

Several sections of the regulations, relating to tax-free sales, require a manufacturer or retailer to obtain an exemption certificate from the purchaser. As suggested by two comments on the proposed regulations, the final regulations provide that any form of exemption certificate will be acceptable if it includes all the information required to be included in such a certificate by the regulations relating to a particular exemption. This rule is contained in new § 48.0-5.

Also in response to comments from the public, the maximum duration of blanket exemption certificates authorized by several sections of the regulations has been extended from 4 calendar quarters to 12 calendar quarters.

## MANUFACTURER'S SALE PRICE

The Internal Revenue Service is now considering revising the positions taken in some published rulings dealing with constructive sale price. As conclusions reached in connection with that study could affect some provisions of the regulations relating to constructive sale price, those proposed amendments to the regulations are not being adopted at this time.

In response to comments from the public, several relatively minor clarifying changes have been made to other rules dealing with a manufacturer's sale price.

## DRAFTING INFORMATION

The principal author of this regulation was Jonathan P. Marget of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal

Revenue Service and the Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE  
REGULATIONS

Accordingly—

1. The following sections of the proposed regulations are withdrawn:

a. Sections 48.4054, 48.4055, 48.4056, 48.4057, and 48.4058, as set forth in paragraph 3 of the appendix of the notice of proposed rule making.

b. Sections 48.4216(a), 48.4216(b), 48.4216(c), and 48.4216(e), as set forth in paragraph 4 of the appendix to the notice of proposed rule making.

c. Sections 48.4216(g) and 48.4217, as set forth in paragraph 5 of the appendix to the notice of proposed rule making.

d. Sections 48.4221, 48.4222(a), 48.4222(b), 48.4222(c), 48.4222(d), 48.4222(e), 48.4223, 48.4225, 48.4226, and 48.4227, as set forth in paragraph 7 of the appendix to the notice of proposed rule making.

2. Sections 48.4216(b)-1 through 48.4216(b)-4 are not adopted hereby and will remain outstanding in proposed form.

3. The other amendments to 26 CFR Part 48 are hereby adopted, subject to the changes set forth below.

PARAGRAPH 1. Section 48.0-1 is amended by deleting paragraph (c) and by revising paragraph (b) to read as follows:

## § 48.0-1 Introduction.

(b) Arrangement and numbering. Each section of the regulations in this part (other than subpart A) is designated by a number composed of the part number followed by a decimal point (48.); the section, subsection, or paragraph of the Internal Revenue Code which it interprets; a hyphen (-); and a number identifying the section. By use of these designations one can ascertain the sections of the regulations relating to a provision of the Code. For example, the regulations pertaining to section 4072 of the Code are designated § 48.4072-1. Subpart A of this part contains provisions relating to the arrangement and numbering of the sections of the regulations in this part and other provisions of general application to various taxes, such as general definitions and use of terms, scope of regulations, and the extent to which the regulations in this part supersede prior regulations relating to the excise taxes imposed by chapters 31 and 32 of the Internal Revenue Code.

PAR. 2. Section 48.0-2, as set forth in paragraph 1 of the appendix to the notice of proposed rule making, is changed by revising paragraph (a) (7) and (8) and paragraph (b) (1), (2), and (5) to read as follows:

## § 48.0-2 General definitions and attachment of tax.

(a) Meaning of terms. . . .

(7) The term "vendor" includes a lessor except that, with respect to the manufac-



turers excise taxes, this rule applies only where the lessor is also the manufacturer of the article.

(8) The term "purchaser" includes a lessee except that, with respect to the manufacturers excise taxes, this rule applies only where the lessor is also the manufacturer of the article.

(b) *Attachment of tax.* (1) For purposes of this part, the manufacturers excise tax generally attaches when the title to the article sold passes from the manufacturer to a purchaser, and the retailers excise tax generally attaches when the title to the article sold passes from the retailer to a purchaser.

(2) When title passes is dependent upon the intention of the parties as gathered from the contract of sale and the attendant circumstances. In the absence of expressed intention, the legal rules of presumption followed in the jurisdiction where the sale is made govern in determining when title passes.

(5) In the case of a lease, an installment sale, a conditional sale, or a chattel mortgage arrangement or similar arrangement creating a security interest, a proportionate part of the tax attaches to each payment. See section 4217 and the regulations thereunder for a limitation on the amount of tax payable on lease payments.

PAR. 3. The amendment to § 48.0-4, set forth in paragraph 2 of the appendix to the notice of proposed rule making, is changed by striking out "§§ 148.1-3, 148.1-4, and 148.1-5" and inserting in lieu thereof §§ 148.1-3 and 148.1-4".

PAR. 4. The following new section is inserted immediately after § 48.0-4:

§ 48.0-5 *Exemption certificates.*

Several sections of the regulations in this part, relating to sales exempt from retailers or manufacturers excise tax, require the retailer or manufacturer (as the case may be) to obtain an exemption certificate from the purchaser to substantiate the exempt character of the sale. Many of these sections also contain specimen forms of acceptable exemption certificates. However, any form of exemption certificate will be acceptable if it includes all the information required to be contained in such a certificate by the pertinent sections of the regulations in this part. If it contains all the required information, a form of exemption certificate that is processed by data processing equipment is acceptable.

PAR. 5. Subparts B (§§ 48.4001 through 48.4003-4, relating to jewelry), C (§§ 48.4011 through 4022-2, relating to furs), D (§§ 48.4021 through 4022-2, relating to toilet preparations), and E (§§ 48.4031 and 48.4031-1, relating to luggage, handbags, etc.) are deleted.

PAR. 6. Section 48.4041 is deleted.

PAR. 7. Section 48.4041-10 is deleted, and § 48.4041-11 is redesignated as § 48.4041-10.

PAR. 8. Section 48.4055-1, as set forth in paragraph 3 of the appendix to the

notice of proposed rule making, is changed by (1) redesignating the section as § 48.4041-11, (2) striking out "clearly identified" from the second sentence of paragraph (b), and (3) striking out "section 4055" from the second line of the exemption certificate form set forth in paragraph (b) and inserting in lieu thereof "section 4041(g)(2)".

PAR. 9. Section 48.4056-1, as set forth in paragraph 3 of the appendix to the notice of proposed rule making, is redesignated as § 48.4041-12.

PAR. 10. Section 48.4057-1, as set forth in paragraph 3 of the appendix to the notice of proposed rule making, is changed by (1) redesignating the section as § 48.4041-13, (2) striking out "4 calendar quarters" in paragraph (e) and inserting in lieu thereof "12 calendar quarters", and (3) striking out "In the absence of circumstances indicating a different use, the" from paragraph (f) and inserting in lieu thereof "The".

PAR. 11. Sections 48.4061(a), 48.4061(b), 48.4062(a), 48.4062(b), 48.4063, 48.4071, 48.4072, 48.4073, 48.4081, 48.4082, 48.4083, 48.4091, 48.4092, 48.4093, 48.4101, and 48.4102 are deleted.

PAR. 12. Subparts I (§§ 48.4111 through 48.4131-3, relating to refrigeration equipment, electric, gas and oil appliances, and electric light bulbs) and J (§§ 48.4141 through 48.4151-2, relating to radio and television sets, phonographs, phonograph records, and musical instruments) are deleted.

PAR. 13. Sections 48.4161(a), 48.4161(b), 48.4171, 48.4181, and 48.4182 are deleted.

PAR. 14. Subpart L (§§ 48.4191 through 48.4211-3, relating to business machines, pens, mechanical pencils and lighters, and matches) is deleted.

PAR. 15. Section 48.4216(a)-1, as set forth in paragraph 4 of the appendix to the notice of proposed rule making, is changed by (1) striking out "section 4216(f) and § 48.4216(f)-1" from the sixth sentence of paragraph (a) and inserting in lieu thereof "section 4216(e) and § 48.4216(e)-1"; (2) revising the last sentence of paragraph (a) to read as set forth below; and (3) adding the following new paragraph (e) following paragraph (d):

§ 48.4216(a)-1 *Charges to be included in sale price.*

(a) *In general.* \*\*\* In the case of sales on credit, a carrying, finance, or service charge is excludable from the sale price if it is reasonably related to the costs of carrying the deferred portion of the sale price (such as interest on the deferred portion of the sale price, expenses of bookkeeping necessary to keep the records of such sales, and expenses of correspondence and other communication in connection with collection).

(e) *Taxable and nontaxable articles sold as a unit.* Where a taxable article and a

nontaxable article are sold by the manufacturer as a unit, the tax attaches to that portion of the manufacturer's sale price of the unit which is properly allocable to the taxable article. For example, where a fishing reel (an article subject to tax under section 4161(a)) is equipped with a fishing line (a nontaxable article) and the reel and line are sold as a unit, the tax imposed by section 4161(a) applies only to that portion of the manufacturer's sale price of the unit which is properly allocable to the fishing reel. Normally, the taxable portion of such a unit may be determined by applying to the manufacturer's sale price of the unit the ratio which the manufacturer's separate sale price of the taxable article bears to the sum of the sale prices of both the taxable and nontaxable articles, if such articles are sold separately by the manufacturer. Where the articles (or either one of them) are not sold separately by the manufacturer and do not have established sale prices, the taxable portion is to be determined from a comparison of the actual costs of the articles to the manufacturer. Thus, if the cost of the taxable article represents four-fifths of the total cost of the complete unit, the tax applies to four-fifths of the price charged by the manufacturer for the unit.

PAR. 16. Section 48.4216(a)-2, as set forth in paragraph 4 of the appendix to the notice of proposed rule making, is changed by (1) revising the third sentence of paragraph (a)(1); (2) inserting a new sentence after the first sentence of paragraph (b)(1); and (3) revising so much of paragraph (b)(2) as follows the fifth sentence. These revised and added provisions read as follows:

§ 48.4216(a)-2 *Exclusions from sale price.*

(a) *Tax—(1) Tax not part of taxable sale price.* \*\*\* Where no separate charge is made as tax, it will be presumed that the price charged to the purchaser for the article includes the proper tax, and the proper percentage of such price will be allocated to the tax.

(b) *Transportation, delivery, insurance, or installation charges—(1) Charges incurred pursuant to sale.* \*\*\* Such charges include all items of transportation, delivery, insurance, installation, and similar expense incurred after shipment to a customer beings, in response to the customer's order, pursuant to a bona fide sale. \*\*\*

(2) *Only actual expenses to be excluded.* \*\*\* In general, unless the taxpayer establishes to the satisfaction of the district director that another method reasonably apportions such freight expense between taxable and nontaxable articles, such expense should be apportioned on the basis of the relative weights (or, if available, the relative published tariff rates applicable to) the taxable and nontaxable articles. Where it is not feasible to apportion such expense on the basis of relative weights or tariff rates, the expense shall be apportioned on another reasonable basis; for example, in the case of a shipment including both taxable and nontaxable automotive parts which are subject to the same tariff rate, it may be appropriate to apportion the transportation expense on the basis of the relative sale prices. A charge for insurance in connection with the delivery of an article to a purchaser is con-



sidered to represent an expense actually incurred only to the extent that an amount equivalent to such charge is paid or payable by the manufacturer to a person authorized to assume such insurance risk.

PAR. 17. Section 48.4216(c)-1, as set forth in paragraph 4 of the appendix to the notice of proposed rule making, is changed by revising the first sentence of paragraph (b) to read as follows:

*§ 48.4216(c)-1 Computation of tax on leases and installment sales.*

(b) *Installation sales.* When a taxable article is sold under an installment payment contract with title reserved in the seller, or under a conditional sale contract, chattel mortgage arrangement or other arrangement creating a security interest with payments to be made in installments, tax shall be computed and paid on each payment made by the purchaser. \* \* \*

PAR. 18. Section 48.4216(e)-1, as set forth in paragraph 4 of the appendix to the notice of proposed rule making, is changed by (1) redesignating the section as § 48.4216(d)-1 and (2) striking out "section 4216(e)" in paragraph (c) and inserting in lieu thereof "section 4216(d)".

PAR. 19. Section 48.4216(f) is deleted.

PAR. 20. Section 48.4216(f)-1 is amended as follows:

1. The section is redesignated § 48.4216(e)-1.

2. Paragraph (a) is revised by deleting "4216(f)" from the first, second, fourth, and fifth sentences and inserting in lieu thereof "4216(e)"; by deleting "§ 48.4216(f)-2" from the sixth sentence and inserting in lieu thereof "48.4216(e)-2"; and by deleting "§ 48.4216(f)-3" from the seventh sentence and inserting in lieu thereof "§ 48.4216(e)-3".

3. Paragraph (b) is revised by deleting "4216(f)" from the first sentence and inserting in lieu thereof "4216(e)".

4. Paragraph (c)(2) is revised by deleting "§ 48.4216(f)-2" from the fifth sentence and inserting in lieu thereof "§ 48.4216(e)-2".

PAR. 21. Section 48.4216(f)-2 is amended as follows:

1. The section is redesignated § 48.4216(e)-2.

2. Paragraph (a) is revised by deleting "section 4216(f)(1)" and § 48.4216(f)-1, from the first sentence and inserting in lieu thereof "section 4216(e)(1) and § 48.4216(e)-1".

3. Paragraph (b)(1) is revised by striking out "section 4216(f)(2)" from the first sentence and inserting in lieu thereof "section 4216(e)(2)".

4. Paragraph (b)(2) is revised by striking out "§ 48.4216(f)-1" and inserting in lieu thereof "§ 48.4216(e)-1".

5. Paragraph (b)(3) is revised by deleting "section 4216(f)(1) and

§ 48.4216(f)-1" from the second sentence and inserting in lieu thereof "section 4216(e)(1) and § 48.4216(e)-1".

6. Example (2) of paragraph (c) is revised by striking out "§ 48.4216(f)-1" from line 5 of the Computation as of close of first calendar quarter and inserting in lieu thereof "§ 48.4216(e)-1".

PAR. 22. Section 48.4216(f)-3 is amended as follows:

1. The section is redesignated § 48.4216(e)-3.

2. Paragraph (a)(1) is revised by striking out "section 4216(f)(4) and paragraphs (a) and (b) of § 48.4216(f)-1, or" and inserting in lieu thereof "section 4216(e)(4) and paragraphs (a) and (b) of § 48.4216(e)-1, or".

3. Paragraph (a)(2) is revised by striking out "section 4216(f)(1) and paragraph (c) of § 48.4216(f)-1" and inserting in lieu thereof "section 4216(e)(1) and paragraph (c) of § 48.4216(e)-1".

4. Paragraph (b)(1) is revised by striking out "section 4216(f)(4) and paragraph (b) of § 48.4216(f)-1, or" and inserting in lieu thereof "section 4216(e)(4) and paragraph (b) of § 48.4216(e)-1, or".

5. Paragraph (b)(2) is revised by striking out from the first sentence "section 4216(f)(2), as computed in accordance with § 48.4216(f)-2," and inserting in lieu thereof "section 4216(e)(2), as computed in accordance with § 48.4216(e)-2".

PAR. 23. Section 48.4216(g)-1, as set forth in paragraph 5 of the appendix to the notice of proposed rule making, is changed by redesignating the section as § 48.4216(f)-1.

PAR. 24. Section 48.4218 is deleted.

PAR. 25. Section 48.4221-1, as set forth in paragraph 7 of the appendix to the notice of proposed rule making, is changed by (1) deleting the first sentence of paragraph (b)(4); (2) adding the new subparagraph (5) set forth below at the end of paragraph (b); and (3) by revising paragraph (c)(1) to read as set forth below:

*§ 48.4221-1 Tax-free sales; general rule.*

(b) \* \* \*

(5) *Information to be furnished to purchaser.* A manufacturer selling articles free of tax under this section after December 31, 1978, shall indicate to the purchaser that (i) certain articles normally subject to tax are being sold tax free and (ii) the purchaser is obtaining those articles tax free for an exempt purpose under an exemption certificate or its equivalent. The manufacturer may transmit this information by any convenient means, such as coding of sales invoices, provided that the information is presented with sufficient particularity so that the purchaser is informed that he has obtained the articles tax free and—

(i) The purchaser can compute and remit the tax due if an article sold tax free for further manufacture is diverted to a taxable use,

(ii) The manufacturer can remit the tax due with respect to an article purchased tax free for resale for use in further manufacture or for export if, within the 6-month period described in § 48.4221-2(c) or § 48.4221-3(c), the manufacturer does not receive proof that the article has been exported or resold for use in further manufacture, or

(iii) The purchaser can notify the manufacturer if an article otherwise purchased tax free is diverted to a taxable use.

(c) *Evidence required in support of tax-free sales.*—(1) *Purchasers required to be registered.* Every purchaser who is required to be registered (see § 48.4222(a)-1) shall furnish to the seller, as evidence in support of each tax-free sale made by the seller to such purchaser, the exempt purpose for which the article or articles are being purchased and the registration number of the purchaser. Such information must be in writing and may be noted on the purchase order or other document furnished by the purchaser to the seller in connection with each sale.

PAR. 26. Section 48.4221-2, as set forth in paragraph 7 of the appendix to the notice of proposed rulemaking, is changed by deleting the third and fourth sentences of paragraph (a)(1).

PAR. 27. Section 48.4221-4, as set forth in paragraph 7 of the appendix to the notice of proposed rule making, is changed by (1) striking out "4 calendar quarters" from the second sentence of paragraph (d)(2)(ii) and from the exemption certificate set forth in paragraph (d)(2)(iii), and inserting in lieu thereof "12 calendar quarters"; and (2) revising paragraph (b)(8) to read as follows:

*§ 48.4221-4 Tax-free sale of articles for use by the purchaser as supplies for vessels or aircraft.*

(b) *Meaning of terms.* \* \* \*

(8) *Trade.* The term "trade" includes the transportation of persons or property for hire and the making of the necessary preparations for such transportation. The term "trade" also includes the transportation of property on a vessel or aircraft owned or chartered by the owner of the property in connection with the purchase, sale, or exchange of the property in a commercial business operation. However, a vessel owned or chartered by a company and used in the transportation of personnel or property of such company to or from its business properties located in a foreign country, or in a possession of the United States, is not engaged in "trade".

PAR. 28. Section 48.4221-5, as set forth in paragraph 7 of the appendix to the notice of proposed rule making, is changed by striking out "four calendar quarters" from the third sentence of paragraph (c)(1) and "4 calendar quarters" from the exemption certificate set forth in paragraph (c)(1), and inserting in lieu thereof "12 calendar quarters".

PAR. 29. Section 48.4221-9, as set forth in paragraph 7 of the appendix to the notice of proposed rule making,



is changed by (1) striking out "section 6416(b)(2)(R)" from paragraph (f) and inserting in lieu thereof "section 6416(b)(2)(I)", and (2) revising paragraph (e) to read as follows:

§ 48.4221-9 Tax-free sale of school buses.

(e) *Duty of seller to ascertain validity of tax-free sale.* If the manufacturer of the bus has knowledge at the time of its sale of the bus that the purchaser does not intend to use the bus as prescribed in section 4221(e)(5), the manufacturer is liable for the tax and is not relieved of liability by reason of the registration of the purchaser, or the provisions of section 4221(c). In any case where the manufacturer of a bus has knowledge, at the time the bus is sold tax free for use as a school bus, that the purchaser has a contract with a school operated by a State or local government or by a non-profit educational organization for the transportation of students or employees of the school during the school year in which delivery of the bus is to be made to the purchaser (or during the next school year if delivery is to be made between school years), the seller will be considered to have accepted in good faith the purchaser's certification that the bus will be used as prescribed in section 4221(e)(5).

PAR. 30. Sections 48.6011(a), 48.6011(c), 48.6011(c)-1, 48.6071(a), 48.6091, 48.6109, 48.6151, 48.6206, 48.6302(c), 48.6416(a), 48.6416(b), 48.6416(c), 48.6416(d), 48.6416(d)-1, 48.6416(e), 48.6416(f), 48.6416(g), 48.6416(h), 48.6416(i), 48.6420(a), 48.6420(b), 48.6420(c), 48.6420(d), 48.6420(e), 48.6420(f), 48.6420(g), 48.6420(h), 48.6421(a), 48.6421(b), 48.6421(c), 48.6421(d), 48.6421(e), 48.6421(f), 48.6421(g), 48.6421(h), 48.6421(i), and 48.6675 are deleted.

(Section 7805 of the Internal Revenue Code of 1954 (88 Stat. 898, 68A Stat. 917; 26 U.S.C. 7805).)

JEROME KURTZ,  
Commissioner of  
Internal Revenue.

Approved: March 24, 1978.

ROBERT H. MUNDHEIM,  
General Counsel.

PARAGRAPH 1. Section 48.0-1 is amended by deleting paragraph (c) and by revising paragraph (b) to read as follows:

§ 48.0-1 Introduction.

(b) *Arrangement and numbering.* Each section of the regulations in this part (other than subpart A) is designated by a number composed of the part number followed by a decimal point (48.); the section, subsection, or paragraph of the Internal Revenue Code which it interprets; a hyphen (-); and a number identifying the section. By use of these designations one can

ascertain the sections of the regulations relating to a provision of the Code. For example, the regulations pertaining to section 4072 of the Code are designated § 48.4072-1. Subpart A of this part contains provisions relating to the arrangement and numbering of the sections of the regulations in this part and other provisions of general application to various taxes, such as general definitions and use of terms, scope of regulations, and the extent to which the regulations in this part supersede prior regulations relating to the excise taxes imposed by chapters 31 and 32 of the Internal Revenue Code.

PAR. 2. Section 48.0-2 is amended to read as follows:

§ 48.0-2 General definitions and attachment of tax.

(a) *Meaning of terms.* As used in the regulations in this part, unless otherwise expressly indicated—

(1) The terms defined in the provisions of law contained in the regulations in this part shall have the meanings so assigned to them.

(2) The term "district director" means district director of internal revenue for an internal revenue district. The term also includes, where appropriate, the Director of International Operations.

(3) The term "calendar quarter" means a period of 3 calendar months ending on March 31, June 30, September 30, or December 31.

(4) (i) The term "manufacturer" includes any person who produces a taxable article from scrap, salvage, or junk material, or from new or raw material, by processing, manipulating, or changing the form of an article or by combining or assembling two or more articles. The term also includes a "producer" and an "importer". An "importer" of a taxable article is any person who brings such an article into the United States from a source outside the United States, or who withdraws such an article from a customs bonded warehouse for sale or use in the United States. If the nominal importer of a taxable article is not its beneficial owner (for example, the nominal importer is a customs broker engaged by the beneficial owner), the beneficial owner is the "importer" of the article for purposes of chapter 32 and is liable for tax on his sale or use of the article in the United States. See section 4219 and the regulations thereunder for the circumstances under which sales by persons other than the manufacturer or importer are subject to the manufacturers excise tax.

(ii) Under certain circumstances, as where a person manufactures or produces a taxable article for another person who furnishes materials under an agreement whereby the person who furnished the materials retains title

thereto and to the finished article, the person for whom the taxable article is manufactured or produced, and not the person who actually manufactures or produces it, will be considered the manufacturer.

(iii) A manufacturer who sells a taxable article in a knockdown condition is liable for the tax as a manufacturer. Whether the person who buys such component parts and assembles a taxable article from them will also be liable for tax as a further manufacturer of a taxable article will depend on the relative amount of labor, material, and overhead required to assemble the completed article and on whether the article is assembled for a business or personal use. See section 4218 and the regulations thereunder.

(5) The term "sale" means an agreement whereby the seller transfers the property (that is, the title or the substantial incidents of ownership) in goods to the buyer for a consideration called the price, which may consist of money, services, or other things.

(6) The term "taxable article" means any article taxable under section 4041 or chapter 32, Subtitle D, of the Code.

(7) The term "vendor" includes a lessor except that, with respect to the manufacturers excise taxes, this rule applies only where the lessor is also the manufacturer of the article.

(8) The term "purchaser" includes a lessee except that, with respect to the manufacturers excise taxes, this rule applies only where the lessor is also the manufacturer of the article.

(9) The term "exporter" means the person named as shipper or consignor in the export bill of lading.

(10) The term "exportation" means the severance of an article from the mass of things belonging within the United States with the intention of uniting it with the mass of things belonging within some foreign country or within a possession of the United States.

(11) The term "possession of the United States" includes Guam, the Midway Islands, Palmyra, the Panama Canal Zone, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, and Wake Island.

(b) *Attachment of tax.* (1) For purposes of this part, the manufacturers excise tax generally attaches when the title to the article sold passes from the manufacturer to a purchaser, and the retailers excise tax generally attaches when the title to the article sold passes from the retailer to a purchaser.

(2) When title passes is dependent upon the intention of the parties as gathered from the contract of sale and the attendant circumstances. In the absence of expressed intention, the legal rules of presumption followed in the jurisdiction where the sale is made govern in determining when title passes.



(3) In the case of a sale on credit, the tax attaches whether or not the purchase price is actually collected.

(4) Where a consignor (such as a manufacturer) consigns articles to a consignee (such as a dealer), retaining ownership in them until they are disposed of by the consignee, title does not pass, and the tax does not attach, until sale by the consignee. Where the relationship between a manufacturer and a dealer is that of principal and agent, title does not pass, and the tax does not attach, until sale by the dealer.

(5) In the case of a lease, an installment sale, a conditional sale, or a chattel mortgage arrangement or similar arrangement creating a security interest, a proportionate part of the tax attaches to each payment. See section 4217 and the regulations thereunder for a limitation on the amount of tax payable on lease payments.

(6) In the case of use by the manufacturer, the tax attaches at the time the use begins.

PAR. 3. Section 48.0-4 is amended by adding the following new sentence at the end thereof:

§ 48.0-4 Extent to which the regulations in this part supersede prior regulations.

In addition, the regulations in this part supersede the regulations in Part 330 (26 CFR (1939) Part 330) (Determination of Price and Price Readjustments); §§ 145.3, 145.3-1, 145.4, and 145.4-1 of the Temporary Regulations in Connection with the Excise Tax Reduction Act of 1965 (Part 145 of this chapter); and §§ 148.1-3 and 148.1-4 of the regulations relating to Certain Excise Tax Matters Under the Excise Tax Technical Changes Act of 1958 (Part 148 of this chapter).

PAR. 4. The following new section is inserted immediately after § 48.0-4:

#### § 48.0-5 Exemption certificates.

Several sections of the regulations in this part, relating to sales exempt from retailers or manufacturers excise tax, require the retailer or manufacturer (as the case may be) to obtain an exemption certificate from the purchaser to substantiate the exempt character of the sale. Many of these sections also contain specimen forms of acceptable exemption certificates. However, any form of exemption certificate will be acceptable if it includes all the information required to be contained in such a certificate by the pertinent sections of the regulations in this part. If it contains all the required information, a form of exemption certificate that is processed by data processing equipment is acceptable.

PAR. 5. Subparts B (§§ 48.4001 through 48.4003-4, relating to jewel-

ry), C (§§ 48.4011 through 4022-2, relating to furs), D (§§ 48.4021 through 4022-2, relating to toilet preparations), and E (§§ 48.4031 and 48.4031-1, relating to luggage, handbags, etc.) are deleted.

PAR. 6. Section 48.4041 is deleted.

PAR. 7. Section 48.4041-10 is deleted, and § 48.4041-11 is redesignated as § 48.4041-10.

PAR. 8. The following new sections are added immediately after § 48.4041-10:

### Subpart G—Special Provisions Applicable to Retailers Tax

#### § 48.4041-11 Sales to States or political subdivisions thereof.

(a) *Application of exemption.* The taxes imposed by section 4041 do not apply in the case of a sale of any liquid by any person for the exclusive use of any State or any political subdivision thereof, the District of Columbia, or in the case of the use of any liquid by any State or any political subdivision thereof, or the District of Columbia, as a fuel in a motor vehicle, motorboat, or aircraft.

(b) *Evidence required to establish exemption.* Any vendor claiming exemption under this section shall be prepared to produce evidence that will establish the right to exemption from the tax imposed by section 4041. Generally, orders or contracts of a State or a political subdivision thereof, or the District of Columbia, when signed by an authorized officer thereof will be accepted in support of the exemption. However, in the absence of such orders or contracts, a certificate signed by such an authorized officer that the liquid sold was purchased for the exclusive use of a State or political subdivision thereof, or the District of Columbia, will be acceptable. The certificate shall be in substantially the following form:

#### EXEMPTION CERTIFICATE

(For use by States and local governments. (section 4041(g)(2) of the Internal Revenue Code).)

Date \_\_\_\_\_, 19\_\_\_\_.

I hereby certify that I am \_\_\_\_\_ of \_\_\_\_\_ (State or local government) that I am authorized to execute this certificate; and that

(Check applicable type of certificate)

\_\_\_\_\_ the liquid or liquids specified in the accompanying order, or on the reverse side hereof, (or)

\_\_\_\_\_ all orders placed by the purchaser for the period commencing \_\_\_\_\_ (Date) and ending \_\_\_\_\_ (Date) (period not to exceed 12 calendar quarters) are, or will be, purchased from \_\_\_\_\_ (Name of vendor) for the exclusive use of \_\_\_\_\_ (Governmental unit) of \_\_\_\_\_ (State or local government).

I understand that the exemption from tax in the case of sales of liquids under this ex-

emption certificate is limited to the sale of articles purchased for the exclusive use of a State, etc. I understand that the fraudulent use of this certificate for the purpose of securing this exemption will subject me and all parties making such fraudulent use of this certificate to a fine of not more than \$10,000, or to imprisonment for not more than 5 years, or both, together with costs of prosecution.

Signature \_\_\_\_\_

Address \_\_\_\_\_

#### § 48.4041-12 Sales for export.

(a) *General rule.* In order for a sale to be exempt from tax under section 4041 as a sale for export, it is necessary that the liquid be (1) identified as having been sold by the retailer for export and (2) exported in due course. To establish exemption from tax in the case of a taxable article for export, it is necessary that the retailer maintain adequate records and have in his possession documentary evidence showing that the article was so sold.

(b) *Proof of exportation.* Exportation may be evidenced by any one of (1) a copy of the export bill of lading issued by the delivering carrier, (2) a certificate by the agent or representative of the export carrier showing actual exportation of the liquid, (3) a certificate of landing signed by a customs officer of the foreign country to which the liquid is exported, or (4) a statement of the foreign consignee showing receipt of the liquid.

(c) *Shipment to possessions of the United States.* The same provisions as relate to sales for export and proof of exportation will apply to sales for shipment to a possession of the United States, within the meaning of § 48.0-2.

#### § 48.4041-13 Tax-free retail sales to certain nonprofit educational organizations.

(a) *In general.* The taxes imposed by section 4041 do not apply in the case of a sale of any liquid by any person to a nonprofit educational organization (as defined in paragraph (b) of this section) for its exclusive use, or in the case of the use of any liquid by such an organization. In the case of a school operated as an activity of an organization described in section 501(c)(3), as referred to in paragraph (b) of this section, the liquid must be sold for the exclusive use of the school, or the liquid must be used exclusively by the school.

(b) *Definition of nonprofit educational organization.* For purposes of section 4041(g)(4) and this section, the term "nonprofit educational organization" means an organization described in section 170(b)(1)(A)(ii), that is exempt from income tax under section 501(a), whose primary function is the presentation of formal instruction and which normally maintains a regular faculty and curriculum and normally



has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. The term also includes a school operated as an activity of an organization described in section 501(c)(3) which is exempt from income tax under section 501 (a), provided such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.

(c) *Evidence required to establish tax-free sales to a nonprofit educational organization; general rule.* To establish the right to exemption, the retailer must obtain from the purchaser and retain in its possession a properly executed certificate as set forth in paragraph (d) of this section.

(d) *Forms of exemption certificates.* The following forms of exemption certificates will be acceptable for the purpose of this section and must be adhered to in substance.

(1) Form of certificate for exemption from retailers excise taxes for use by a nonprofit educational organization, other than a school operated as an activity of a church or other exempt organization that in itself is not a nonprofit educational organization.

EXEMPTION CERTIFICATE

(For use by a nonprofit educational organization (other than a school operated as an activity of a church or other exempt organization) that in itself is not a nonprofit educational organization) purchasing articles subject to retailers excise tax for its exclusive use) —, 19— (Date) I hereby certify that I am — (Title) of — (Exempt organization); that I am authorized to execute this certificate; and that the articles specified in the accompanying order or on the reverse side hereof are purchased by such organization exclusively for use in its educational activities.

I understand that this exemption certificate is for use only by a nonprofit educational organization in the tax-free purchase for its exclusive use of articles subject to the retailers excise tax; and it is agreed that if any article purchased tax free under this exemption certificate is used otherwise, such fact will be reported to the retailer from whom the tax-free purchase was made.

The organization claiming exemption under this certificate has received a determination letter (or a ruling) from the Internal Revenue Service holding the organization to be exempt from income tax as an organization described in section 170(b)(1)(A)(ii) that is exempt from income tax under section 501(a) of the Internal Revenue Code (or has received a determination letter (or ruling) under the corresponding provisions of prior revenue laws). The date of such determination letter (or ruling) is — and such determination letter (or ruling) has not been withdrawn or revoked.

I understand that the fraudulent use of this certificate for the purpose of securing this exemption will subject me and all parties making such fraudulent use of this certificate to a fine of not more than \$10,000, or to imprisonment for not more than 5

years, or both, together with costs of prosecution.

(Signature of authorized individual)

(Address)

(2) Form of certificate for exemption from retailers excise taxes for use by a school operated as an activity of a church or other organization described in section 501(c)(3) that in itself is not an educational organization described in section 170(b)(1)(A)(ii) of the Code:

EXEMPTION CERTIFICATE

(For use by or for a school operated as an activity of a church or other organization described in section 501(c)(3) of the Internal Revenue Code of 1954, that is not, in itself, an educational organization described in section 170(b)(1)(A)(ii), purchasing articles subject to retailers excise tax for the exclusive use of the school) —, 19— (Date) I hereby certify that I am — (Title) of — (School, church, parish, etc.); that I am authorized to execute this certificate; and that the articles specified in the accompanying order or on the reverse side hereof are purchased by such institution exclusively for use in its educational activities.

I understand that this exemption certificate is for use only by a school operated as an activity of a church or other organization described in section 501(c)(3) of the Internal Revenue Code of 1954, in the tax-free purchase for its exclusive use of articles subject to the retailers excise tax; or by a church, or other organization in the tax-free purchase of any such article for the exclusive use of its school which qualifies for the exemption; and it is agreed that if any article purchased tax free under this exemption certificate is used otherwise, such fact will be reported to the retailer from whom the tax-free purchase was made.

The school operated as an activity of the church or other organization described in section 501(c)(3) of the Internal Revenue Code of 1954, normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.

I understand that the fraudulent use of this certificate for the purpose of securing this exemption will subject me and all parties making such fraudulent use of this certificate to a fine of not more than \$10,000, or to imprisonment for not more than 5 years, or both, together with costs of prosecution.

(Signature of authorized individual)

(Address)

(e) *Frequency of certificates.* Where only occasional sales are made by a retailer to a nonprofit educational organization, as defined in paragraph (b) of this section, a separate exemption certificate should be furnished for each order. However, where sales by the retailer to the educational organi-

zation are regularly or frequently made, a certificate covering all orders for a specified period not to exceed 12 calendar quarters will be acceptable. Such certificate and proper records of invoices, orders, etc., relative to tax-free sales must be readily accessible for inspection by internal revenue officers and retained as provided in section 6001 of the Code and the regulations thereunder.

(f) *Prima facie evidence of exempt use.* The exemption certificate procured by the retailer from the purchasing nonprofit educational organization will be acceptable as prima facie evidence that the article is purchased for the exclusive use of such organization.

(g) *Exemption certificate not obtained prior to filing of retailer's excise tax return.* If the sale is otherwise exempt but the exemption certificate is not obtained prior to the time the retailer files a return covering taxes due for the period in which the sale was made, the retailer must include the tax on such sale in its return for that period. However, if the certificate is later obtained, a credit may be taken on a subsequent return or a claim for refund of the tax paid on such sale may be filed, within the period of limitation prescribed by section 6511(b) of the Code and § 301.6511(b)-1 of this chapter.

PAR. 9. Sections 48.4061(a), 48.4061(b), 48.4062(a), 48.4062(b), 48.4063, 48.4071, 48.4072, 48.4073, 48.4081, 48.4082, 48.4083, 48.4091, 48.4092, 48.4093, 48.4101, and 48.4102 are deleted.

PAR. 10. Subparts I (§§ 48.4111 through 48.4131-3, relating to refrigeration equipment, electric, gas and oil appliances, and electric light bulbs) and J (§§ 48.4141 through 48.4151-2, relating to radio and television sets, phonographs, phonograph records, and musical instruments) are deleted.

PAR. 11. Sections 48.4161(a), 48.4161(b), 48.4171, 48.4181, and 48.4182 are deleted.

PAR. 12. Subpart L (§§ 48.4191 through 48.4211-3, relating to business machines, pens, mechanical pencils and lighters, and matches) is deleted.

PAR. 13. The following new provisions are added immediately before § 48.4216(f):

§ 48.4216 (a)-1 Charges to be included in sale price.

(a) *In general.* The "price" for which an article is sold includes the total consideration paid for the article, whether that consideration is in the form of money, services, or other things. See § 48.0-2 (a) (5). However, for purposes of the taxes imposed under chapter 32 certain collateral charges made in connection with the sale of a taxable article must be included in the taxable sale price,



whereas others may be excluded. Any charge which is required by a manufacturer, producer, or importer to be paid as a condition of its sale of a taxable article and which is not attributable to an expense falling within one of the exclusions provided in section 4216 or the regulations thereunder is includible in the taxable sale price. It is immaterial for this purpose that the charge may be paid to a person other than the manufacturer, producer, or importer, or that it may be separately billed to the purchaser as a charge earmarked for expenses incurred or to be incurred in his behalf, such as charges for demonstration or display of the article, for sales promotion programs, or otherwise. With respect to the rules relating to exclusion (in the case of sales after December 31, 1960) of charges for local advertising of a manufacturer's products, see section 4216(e) and § 48.4216(e)-1. In the case of sales on credit, a carrying, finance, or service charge is excludable from the sale price if it is reasonably related to the costs of carrying the deferred portion of the sale price (such as interest on the deferred portion of the sale price, expenses of bookkeeping necessary to keep the records of such sales, and expenses of correspondence and other communication in connection with collection).

(b) *Tools and dies.* Separate charges for tools and dies used in the manufacture or production of a taxable article are to be included, in whole or in part, in the sale price on which the tax is based. It is immaterial whether the charges for such items are billed in a lump sum or are amortized or allocated to each of the taxable articles. If, at the termination of a contract to manufacture taxable articles, the tools and dies used in production pass to the purchaser, only the amount of depreciation of the tools and dies incurred in production, computed on a "production output" basis, should be included in the sale price. If the purchaser furnishes the tools and dies, the amount of the cost thereof, to the extent that such cost has been depreciated in the production of the taxable articles (computed on a "production output" basis), shall be included in determining the sale price of the articles for purposes of computing the tax. This paragraph applies to sales by manufacturers after May 5, 1974.

(c) *Charges for warranty.* A charge for a warranty of an article which the manufacturer, producer, or importer requires the purchaser to pay in order to obtain the article shall be included in the sale price of the article on which the tax is computed. On the other hand, a charge for a warranty of a taxable article paid at the purchaser's option shall not be included in the sale price for purposes of computing tax thereon.

(d) *Charges for coverings, containers, and packing.* Any charge by the manufacturer, producer, or importer for coverings and containers of whatever nature used to pack an article for shipment shall be included as part of the sale price for the purpose of computing the tax, whether or not the charges are identified as such on the invoice or are billed separately. Even though there is an agreement that the manufacturer, producer, or importer will repay all or a portion of the charge for the coverings or containers upon the return thereof, the full charge nevertheless shall be included in the sale price. It is immaterial whether the charge made at the time of sale is more or less than the actual value of the covering or container. See paragraph (b)(4) of § 48.4216(b)-1 for provisions relating to the claiming of a credit or refund in the case of a price readjustment due to the return or repossession of a covering or container. Packing charges are to be included in the sale price whether the charges cover normal packing or special packing services, such as for extra protection of the article or for odd-lot quantities. This rule shall apply whether the packing services are initiated by the manufacturer, producer, or importer or are furnished at the request of the purchaser and whether the packing is performed by the manufacturer, producer, or importer or by another person at his request. If the purchaser supplies packing materials, the fair market value of such materials must be included in the tax base when computing tax liability on the sale of the article.

(e) *Taxable and nontaxable articles sold as a unit.* Where a taxable article and a nontaxable article are sold by the manufacturer as a unit, the tax attaches to that portion of the manufacturer's sale price of the unit which is properly allocable to the taxable article. For example, where a fishing reel (an article subject to tax under section 4161(a)) is equipped with a fishing line (a nontaxable article) and the reel and line are sold as a unit, the tax imposed by section 4161(a) applies only to that portion of the manufacturer's sale price of the unit which is properly allocable to the fishing reel. Normally, the taxable portion of such a unit may be determined by applying to the manufacturer's sale price of the unit the ratio which the manufacturer's separate sale price of the taxable article bears to the sum of the sale prices of both the taxable and nontaxable articles, if such articles are sold separately by the manufacturer. Where the articles (or either one of them) are not sold separately by the manufacturer and do not have established sale prices, the taxable portion is to be determined from a comparison of the actual costs of the articles to the man-

ufacturer. Thus, if the cost of the taxable article represents four-fifths of the total cost of the complete unit, the tax applies to four-fifths of the price charged by the manufacturer for the unit.

#### § 48.4216(a)-2 Exclusions from sale price.

(a) *Tax—(1) Tax not part of taxable sale price.* The tax imposed by chapter 32 of the Code on the sale of an article is not part of the taxable sale price of the article. Thus, if a manufacturer computes the tax on a sale price which is determined without regard to the tax, and it charges the proper tax as a separate item, the amount of tax so charged does not become a part of the taxable sale price and no tax is due on the tax so charged. Where no separate charge is made as tax, it will be presumed that the price charged to the purchaser for the article includes the proper tax, and the proper percentage of such price will be allocated to the tax.

(2) *Computation of tax.* If an article subject to tax at the rate of 10 percent is sold for \$100 and an additional item of \$10 is billed as tax, \$100 is the taxable selling price and \$10 is the amount of tax due thereon. However, if the article is sold for \$100 with no separate billing or indication of the amount of the tax, it will be presumed that the tax is included in the \$100, and a computation will be necessary to determine what portion of the total amount represents the sale price of the article and what portion represents the tax. The computation is as follows:

Taxable sale price = sale price including tax / 100 + rate of tax.

Thus, if the tax rate is 10 percent and the sale price including tax is \$100, the taxable sale price is \$90.91 (that is, \$100 divided by (100 + 10)), and the tax is 10 percent of \$90.91, or \$9.09.

(b) *Transportation, delivery, insurance, or installation charges—(1) Charges incurred pursuant to sale.* Charges for transportation, delivery, insurance, installation, and other expenses actually incurred in connection with the delivery of an article to a purchaser pursuant to a bona fide sale shall be excluded from the sale price in computing the tax. Such charges include all items of transportation, delivery, insurance, installation, and similar expense incurred after shipment to a customer begins, in response to the customer's order, pursuant to a bona fide sale. However, costs of such nature incurred by a manufacturer, producer, or importer in transporting, in the normal course of business and for its benefit and convenience, articles from a factory or port of entry to a warehouse or other facility (regardless of the location of such warehouse or facility) are not considered as being



incurred in connection with the delivery of an article to a purchaser pursuant to a bona fide sale, and charges therefor cannot be excluded from the sale price in computing tax liability. Similarly, an allowance granted by a manufacturer as reimbursement for expenses incurred by the purchaser in shipping used articles to the manufacturer for credit against the purchase price of taxable articles shall not be excluded from the sale price when computing tax due on the sale of the taxable articles. In any event, no charge may be excluded from the sale price unless the conditions set forth in subparagraph (2) of this paragraph are complied with. Said conditions are prescribed under the authority granted the Secretary or his delegate in section 4216(a).

(2) *Only actual expenses to be excluded.* Where a separate charge is made for transportation or other expenses incurred in connection with the delivery of an article to the purchaser pursuant to a bona fide sale, there shall be excluded in arriving at the sale price subject to tax only that portion of the charge which represents the actual expenses incurred for the transportation or other excludible expenses. Where a separate charge is less than the actual expense, the difference is presumed to be included in the billed price. Such difference, together with the separate charge, shall be excluded in arriving at the sale price on which the tax is computed. Similarly, where no separate charge is made but the manufacturer, producer, or importer incurs an expense of the type to which this paragraph has application, the amount of such expense actually incurred shall be included from the sale price on which the tax is computed. Where transportation expense is incurred in conjunction with a shipment composed of both taxable and nontaxable articles, only the portion of the expense allocable to the taxable articles shall be excludible. In general, unless the taxpayer establishes to the satisfaction of the district director that another method reasonably apportions such freight expense between taxable and nontaxable articles, such expense should be apportioned on the basis of the relative weights (or, if available, the relative published tariff rates applicable to) the taxable and nontaxable articles. Where it is not feasible to apportion such expense on the basis of relative weights or tariff rates, the expense shall be apportioned on another reasonable basis; for example, in the case of a shipment including both taxable and nontaxable automotive parts which are subject to the same tariff rate, it may be appropriate to apportion the transportation expense on the basis of the relative sale prices. A charge for insurance in connection with the delivery of an ar-

ticle to a purchaser is considered to represent an expense actually incurred only to the extent that an amount equivalent to such charge is paid or payable by the manufacturer to a person authorized to assume such insurance risk.

(3) *Transportation, delivery, or installation services performed by manufacturer.* For purposes of computing the taxable sale price of articles, it is immaterial whether the transportation, delivery, or other services of the type to which this paragraph has application are performed by a common carrier or independent agency for or on behalf of the manufacturer, producer, or importer, or are performed by the manufacturer, producer, or importer with the use of its own vehicles or other facilities. Thus, where a manufacturer, producer, or importer performs the transportation, delivery, or other services with its equipment, tools, employees, etc., the cost of such services allocable to the sale of the taxable article shall be excluded. In determining whether an expense is an excludible transportation or delivery expense, only those expenses incurred by reason of the fact that the purchaser accepts delivery at some point other than the manufacturer's place of business shall be considered excludible transportation or delivery expenses. All expenses incurred in placing an article packed, ready for shipment on the loading dock at the manufacturer's factory are not excludible transportation or delivery expenses. An allowance granted by the manufacturer, producer, or importer to the purchaser for transportation, delivery, or other expenses incurred or to be incurred by the purchaser in connection with the sale shall be excluded in computing the taxable sale price, if charges for similar expenses would be excludible if incurred by the manufacturer.

(4) *Records in support of exclusion.* Every manufacturer, producer, or importer making sales of taxable articles shall keep records which will disclose the amount of transportation, delivery, insurance, installation or other expense actually incurred by it in connection with the delivery of a taxable article to a purchaser pursuant to a bona fide sale.

(c) *Other charges.* A charge or expense not within the scope of paragraph (a) or (b) of this section, whether or not separately stated, may not be excluded in computing the taxable sale price unless it can be shown by adequate records that the charge or expense properly is not to be included as a manufacturing or selling expense or is in no way incidental to placing the article in condition packed ready for shipment. Commissions to manufacturers' agents, or allowances, payments, or adjustments made to, and

for the benefit of, persons other than the purchaser may not be excluded or deducted, under any condition, in computing the sale price upon which the tax is computed.

§ 48.4216(a)-3 Other items relating to tax on sale price.

(a) *Exchanges.* If, in connection with the sale of an article subject to a tax imposed under chapter 32 on the price for which sold, a manufacturer receives from its vendee another article in exchange, the tax on the manufacturer's sale shall be computed on the basis of the amount allowed for the article received from the vendee, plus any additional amount charged the vendee.

(b) *Replacements under warranty.* If an article, subject to a tax imposed under chapter 32 on the price for which sold, is returned to the manufacturer by reason of the failure of the article under a warranty as to its quality or service, and a new article is given by the manufacturer, free, or at a reduced price, the tax on the new article shall be computed on the actual amount, if any, to be paid to the manufacturer for the new article. See paragraph (b)(2) of § 48.6416(b)-1 for the circumstances under which the allowance made by the manufacturer, producer, or importer upon the return of the first article constitutes a price readjustment of the sale price of first article and the extent, if any, to which a credit may be allowed, or refund made, of the tax paid by the manufacturer, producer, or importer on the sale of the first article.

(c) *Readjustments in sale price.* Readjustment in sale price (such as allowable discounts, rebates, bonuses, etc.) cannot be anticipated. The tax must be based upon the original price unless the readjustments have actually been made prior to the close of the period for which the tax upon the sale is returned. However, if the price upon which the tax was computed is subsequently readjusted, credit may be taken against the tax due on a subsequent return or a claim for refund filed as provided by section 6416(b)(1) and the regulations thereunder.

§ 48.4216(c)-1 Computation of tax on leases and installment sales.

(a) *Leases.* When a taxable article is leased by a manufacturer, producer, or importer, liability for tax is incurred, except as provided by section 4217(b) and § 48.4217-2, on each payment made with respect to such lease. Tax is payable on each lease payment as long as the article is leased by the manufacturer, producer, or importer. The tax payable with respect to each lease payment is a percentage of each payment based on the rate of tax, if any, in effect on the date the lease payment is due. If the article is subsequently sold



by the manufacturer, producer, or importer, the tax applies also to such sale, without regard to the tax paid when the article was leased. For definition of the term "lease", see paragraph (a) of § 48.4217-1(a).

(b) *Installment sales.* When a taxable article is sold under an installment payment contract with title reserved in the seller, or under a conditional sale contract, chattel mortgage arrangement or other arrangement creating a security interest with payments to be made in installments, tax shall be computed and paid on each payment made by the purchaser. The tax payable with each payment is a percentage of each payment based on the rate of tax, if any, in effect on the date the payment is due. The part of each payment that is subject to tax is that portion of the payment equal to the percentage of the total charge for the article that is subject to tax. For example, if the total charge for the article is \$1,000, and of the total amount charged only 90 percent thereof, or \$900, is subject to tax by reason of exclusions, then only 90 percent of the installment payment is subject to tax. If the tax base is a constructive sale price computed under section 4216(b) that is less than the actual sale price of the article, the portion of each payment subject to tax is the percentage of such payment equal to the percentage that the constructive sale price bears to the actual sale price. For example, if an article is sold at retail for \$100, and the constructive sale price for such an article computed under the provisions of section 4216(b)(1)(A) is \$75, the percentage which the constructive sale price bears to the actual sale price is 75 percent. Accordingly, only 75 percent of each installment payment is subject to tax.

(c) *Sales on credit.* Where articles are sold on credit under conditions other than those specified in paragraph (b) of this section, the entire tax shall be reported and paid with the return covering the period in which the sale is made, even though the price may not be paid to the manufacturer, producer, or importer until a later date, or not paid at all.

(d) *Effective dates of paragraphs (a) and (b) of this section.* The rules set forth in paragraphs (a) and (b) of this section are effective as of June 22, 1965. As in effect before June 22, 1965, section 4216(c) required, in the case of a transaction described in section 4216(c) (1), (2), (3), or (4), that there be paid upon each payment with respect to an article that portion of the total tax which was proportionate to the portion of the total amount to be paid represented by such payment.

#### § 48.4216(d)-1 Sales of installment accounts.

(a) *In general.* Except as provided in paragraph (d) of this section, in case

of a sale or other disposition by a manufacturer, producer, or importer of an installment account of the type specified in section 4216(c), the tax shall not apply to subsequent installment payments on such account. Instead, there shall be paid an amount equal to the difference between the tax previously paid on such installment account and the total tax computed by applying—

(1) To each installment due before the sale of the installment account, the rate of tax applicable at the time payment thereof was due, and

(2) To each installment, the time for payment of which has not arrived, the rate of tax which, under the provisions of chapter 32 as in effect on the date of the sale of the installment account, is (or is to be) in effect on the date such installment is due.

However, see paragraph (b) of this section if the sale is made in a bankruptcy or insolvency proceeding. The tax due under this paragraph shall be included in the return for the period in which the account is sold.

(b) *Sale in bankruptcy or insolvency proceeding.* In the case of a sale of an installment account of a manufacturer, producer, or importer pursuant to the order of, or subject to the approval of, a court of competent jurisdiction in a bankruptcy or insolvency proceeding, the amount of tax due shall be computed and paid as provided in paragraph (a) of this section but shall not exceed the amount of tax computed by multiplying (1) the proportionate share of the amount for which such accounts are sold which is allocable to each unpaid installment payment, by (2) the rate of tax which, under the provisions of chapter 32 as in effect on the date of the sale of the installment account, is (or is to be) in effect on the date such payment is due.

(c) *Collection of installment accounts on behalf of the manufacturer.* Where a manufacturer, producer, or importer retains title to an installment account but turns it over to another person for collection on a fee basis, no sale of such account (or other disposition as contemplated in section 4216(d)) has been made. The tax shall continue to be paid as provided by section 4216(c).

(d) *Returned installment accounts.* Where an installment account which has been sold or otherwise disposed of is returned to the manufacturer, producer, or importer who sold it under an agreement under which the account was sold, and credit or refund has been allowed under section 6416(b)(5) and the regulations thereunder, the manufacturer, producer, or importer shall pay tax as provided by section 4216(c) and § 48.4216(c)-1 on any subsequent payments made on such returned installment account

until such time as there shall have been paid the total tax liability with respect to the account as computed under paragraph (a) of this section.

(e) *Limitation.* The sum of the amounts payable under this section and § 48.4216(c)-1 on an installment account shall not exceed the total amount of tax which would be payable if such installment account had not been sold or otherwise disposed of (computed as provided in subsection (c)).

(f) *Applicability of paragraphs (a) and (b) of this section.* The rules set forth in paragraphs (a) and (b) of this section apply in the case of installment accounts sold after June 21, 1965. In the case of installment accounts sold before June 22, 1965, paragraph (b) of this section shall be applied by substituting, in lieu of subparagraph (2) thereof, "the rate of tax, as set forth in chapter 32 of the Code, which applied on the day on which the transaction giving rise to such installment accounts took place."

PAR. 14. Section 48.4216(f) is deleted.

PAR. 15. Section 48.4216(f)-1 is amended as follows:

1. The section is redesignated § 48.4216(e)-1.

2. Paragraph (a) is revised by deleting "4216(f)" from the first, second, fourth, and fifth sentences and inserting in lieu thereof "4216(e)"; by deleting "§ 48.4216(f)-2" from the sixth sentence and inserting in lieu thereof "48.4216(e)-2"; and by deleting "§ 48.4216(f)-3" from the seventh sentence and inserting in lieu thereof "§ 48.4216(e)-3".

3. Paragraph (b) is revised by deleting "4216(f)" from the first sentence and inserting in lieu thereof "4216(e)".

4. Paragraph (c)(2) is revised by deleting "§ 48.4216(f)-2" from the fifth sentence and inserting in lieu thereof "§ 48.4216(e)-2".

PAR. 16. Section 48.4216(f)-2 is amended as follows:

1. The section is redesignated § 48.4216(e)-2.

2. Paragraph (a) is revised by deleting "section 4216(f)(1) and § 48.4216(f)-1," from the first sentence and inserting in lieu thereof "section 4216(e)(1) and § 48.4216(e)-1".

3. Paragraph (b)(1) is revised by striking out "section 4216(f)(2)" from the first sentence and inserting in lieu thereof "section 4216(e)(2)".

4. Paragraph (b)(2) is revised by striking out "§ 48.4216(f)-1" and inserting in lieu thereof "§ 48.4216(e)-1".

5. Paragraph (b)(3) is revised by deleting "section 4216(f)(1) and § 48.4216(f)-1" from the second sentence and inserting in lieu thereof "section 4216(e)(1) and § 48.4216(e)-1".

6. Example (2) of paragraph (c) is revised by striking out "§ 48.4216(f)-1" from line 5 of the Computation as of close of first calendar quarter and in-



serting in lieu thereof "§ 48.4216(e)-1)".

PAR. 17. Section 48.4216(f)-3 is amended as follows:

1. The section is redesignated § 48.4216(e)-3.

2. Paragraph (a)(1) is revised by striking out "section 4216(f)(4) and paragraphs (a) and (b) of § 48.4216(f)-1, or" and inserting in lieu thereof "section 4216(e)(4) and paragraphs (a) and (b) of § 48.4216(e)-1, or".

3. Paragraph (a)(2) is revised by striking out "section 4216(f)(1) and paragraph (c) of § 48.4216(f)-1, or" and inserting in lieu thereof "section 4216(e)(1) and paragraph (c) of § 48.4216(e)-1, or".

4. Paragraph (b)(1) is revised by striking out "section 4216(f)(4) and paragraph (b) of § 48.4216(f)-1, or" and inserting in lieu thereof "section 4216(e)(4) and paragraph (b) of § 48.4216(e)-1, or".

5. Paragraph (b)(2) is revised by striking out from the first sentence "section 4216(f)(2), as computed in accordance with § 48.4216(f)-2," and inserting in lieu thereof "section 4216(e)(2), as computed in accordance with § 48.4216(e)-2,".

PAR. 18. The following new sections are added immediately after § 48.4216(e)-3:

§ 48.4216(f)-1 Value of used components excluded from price of certain trucks.

For purposes of the tax imposed by section 4061(a)(1) (relating to trucks, buses, etc.), in determining the price for which an article is sold, the value of any previously used component of such article shall be excluded from the price if the person furnishing the component is the first user of the finished article. For example, where a manufacturer builds a truck for a customer who intends to use, rather than resell the truck, incorporating used parts furnished by the customer, the value of the previously used parts shall not be included in the price for which the truck is considered sold by the manufacturer.

§ 48.4217-1 Lease considered as sale.

For purposes of chapter 32 of the Code, the lease of an article by a manufacturer, producer, or importer shall be considered a sale of the article. The term "lease" means a contract or agreement, written or verbal, which gives the lessee an exclusive, continuous right to the possession or use of a particular article for a period of time. The term includes any renewal or extension of a lease or any subsequent lease of the article.

§ 48.4217-2 Limitation on amount of tax applicable to certain leases.

(a) *Conditions for eligibility.* Section 4217(b) provides for a limitation on the amount of tax that shall apply to

the lease, any renewal, or further lease, of an article which, if sold, would be subject to tax on the basis of sale price. Such limitation on the amount of the tax applies with respect to the lease of an article only if, at the time of making the lease, the lessor is engaged in the business of selling in arm's length transactions the same type and model of article. In case of a lease to which section 4217(b) does not apply, tax shall be computed and paid as provided in section 4216(c) and paragraph (a) of § 48.4216(c)-1.

(b) *Lessor engaged in business of selling.* The lessor will be regarded as being engaged in the business of selling in arm's length transactions the same type and model of an article as the one being leased if it periodically and recurrently makes bona fide offers for sale of such articles in the regular course of operation of its business, which offers if accepted would constitute sales at arm's length. Whether the offers are bona fide shall be determined on the basis of the facts in each case, such as sales actually made, the nature of the advertising, sales literature, and other means used to effectuate sales. It is not necessary that the offers for sale be made to the same class of purchasers as those to whom the article is being leased.

(c) *Same type and model of article.* To qualify as the "same type and model of article", the article offered for sale must be an unused article essentially the same in size, design, and function as the article being leased. For example, a van-type truck trailer would not be the same type and model as a stake-body of flat-bed truck trailer. Neither would a 25-foot van-type trailer be the same type and model as a 35-foot van-type trailer. Slight differences in appearance or accessories will not render articles dissimilar which are identical in all other respects.

(d) *Basis for tax—(1) Tax payable until total tax is paid.* In case of a lease of an article to which section 4217 (b) applies, tax shall be paid on each lease payment in an amount computed by applying to such lease payment a percentage equal to the rate of tax in effect on the date of the lease payment. Such tax payments shall continue to be made under such lease, or any subsequent lease of the article, until the cumulative total of the tax payments equals the total tax. Lease payments made thereafter with respect to that article shall not be subject to tax. For definition of the term "total tax", see paragraph (e) of this section.

(2) *Changes in tax rates.* Except as provided in—

(i) Section 701 (a) (3) of the Excise Tax Reduction Act of 1965 (79 Stat. 155) in the case of certain reductions in tax rates effective June 22, 1965, or January 1, 1966, and

(ii) Section 401(h)(3) of the Revenue Act of 1971 (85 Stat. 534) in the case of certain reductions in tax rates effective December 11, 1971, if the rate of tax is increased or decreased during a lease period, the new rate shall apply to the lease payments made on and after the date of the change, but the amount of the total tax shall remain the same.

(e) *Total tax.* For purposes of this section, the term "total tax" means the amount of tax, computed at the rate in effect on the date of the first lease of the article to which section 4217(b) applies, which would be due on the constructive sale price of the article as determined under section 4216(b) and § 48.4216(b)-2, as if the article had been sold by a manufacturer at retail on such date.

(f) *Sale of article before total tax becomes payable.* If the lessor sells the article before the total tax has become payable, the tax payable on the sale shall be the lesser of the following amounts—

(1) The difference between (i) the total tax, and (ii) the aggregate tax applicable to lease payments already received; or

(2) A tax computed, at the rate in effect on the date of the sale, on the price for which the article is sold.

For purposes of subparagraph (2) of this paragraph, the provisions of section 4216(b) for determining a constructive sale price shall not apply if the sale is at arm's length. If the sale is not at arm's length, the tax referred to in subparagraph (2) of this paragraph shall be computed on a constructive sale price as provided in § 48.4216(b)-2.

(g) *Sale of article after total tax has become payable.* If the lessor sells an article after the total tax has become payable, the tax imposed under chapter 32 of the Code shall not apply to such sale.

(h) *Special rules applicable to certain leases entered into before January 1, 1959.* For purposes of this section, in the case of any lease entered into before, and existing on, January 1, 1959—

(1) Such lease shall be considered to have been entered into on January 1, 1959.

(2) The total tax shall be computed on the fair market value of the article on January 1, 1959.

(3) The lease payments under such lease shall include only payments attributable to periods beginning after December 31, 1958.

PAR. 19. Section 48.4218-4 is amended to read as follows:

§ 48.4218-4 Use in further manufacture.

For purposes of section 4218 and § 48.4218-1, an article is used as material in the manufacture or production of, or as a component part of, another



article, if it is incorporated in, or is a part or accessory of, the other article. Lubricating oil in the crankcase of a new truck is an example of a taxable article use as material in the manufacture or production of, or as a component part of, another article. In addition, an article (other than gasoline used as a fuel) is considered to be used as material in the manufacture of another article if it is partly or entirely consumed in testing such other article; for example, shells or cartridges used in testing new firearms. Similarly, if an article is partly or wholly consumed in quality testing a production run of like articles (as, for example, an automotive part destroyed in stress testing) such article is also considered to have been used as material in the manufacture of another article. However, if a taxable article that has been used tax free and only partly consumed in testing is later sold, or put to a taxable use, by the manufacturer, tax attaches to such sale or use. An article that is consumed in the manufacturing process other than in testing, so that it is not a physical part of the manufactured article, is not used as material in the manufacture or production of, or as a component part of, such other article. Thus, lubricating oil consumed in operating plant machinery in the course of the manufacture of automobile truck chassis is not used as material in the manufacture or production of, or as a component part of, the truck chassis.

PAR. 20. Subpart N of Part 48 (26 CFR Part 48) is amended by striking out its existing sections and adding new sections to read as follows:

**Subpart N—Exemptions, Registration, Etc.**

Sec.

- 48.4221-1 Tax-free sales; general rule.
- 48.4221-2 Tax-free sale of articles to be used for, or resold for, further manufacture.
- 48.4221-3 Tax-free sale of articles for export, or for resale by the purchaser to a second purchaser for export.
- 48.4221-4 Tax-free sale of articles for use by the purchaser as supplies for vessels or aircraft.
- 48.4221-5 Tax-free sale of articles to State and local governments for their exclusive use.
- 48.4221-6 Tax-free sales of articles to nonprofit educational institutions.
- 48.4221-7 Tax-free sales of tires and tubes.
- 48.4221-8 Tax-free sales of bicycle tires and tubes for use in further manufacture.
- 48.4221-9 Tax-free sales of school buses.
- 48.4221-10 Cross references; other exemptions.
- 48.4222 (a)-1 Registration.
- 48.4222 (b)-1 Exceptions to the requirement for registration.
- 48.4222 (c)-1 Revocation or suspension of registration.
- 48.4222 (d)-1 Registration in the case of certain other exemptions.
- 48.4223-1 Special rules relating to further manufacture.

Sec.

48.4225-1 Exemption of articles manufactured or produced by Indians.

**§ 48.4221-1 Tax-free sales; general rule.**

(a) *In general.* Section 4221(a) sets forth the following exempt purposes for which an article subject to tax under chapter 32 may be sold tax free by the manufacturer, producer, or importer:

(1) For use by the purchaser for further manufacture, or for resale by the purchaser to a second purchaser for use by such second purchaser in further manufacture (except for tires or inner tubes taxable under section 4071, which articles are covered by sections 4221(e) (2) and (4), and §§ 48.4221-7 and 48.4221-8).

(2) For export, or for resale by the purchaser to a second purchaser for export.

(3) For use by the purchaser as supplies for vessels or aircraft.

(4) To a State or local government for the exclusive use of a State or local government, and

(5) To a nonprofit educational organization for its exclusive use.

Section 4221(a) applies only in those cases where the exportation or use referred to is to occur before any other use, and where the seller, first purchaser, and second purchaser, as may be appropriate, have registered as required under section 4222 and paragraph (a) of § 48.4222(a)-1. See § 48.4222(b)-1 for exceptions to the requirement for registration. See paragraphs (c) and (d) of this section for provisions relating to evidence required in support of tax-free sales. Where tax is paid on the sale of an article, but the article is used or resold for use for an exempt purpose, a claim for credit or refund may be filed in accordance with and to the extent provided in sections 6402(a) and 6416, and the regulations thereunder.

(b) *Manufacturer relieved of liability in certain cases—(1) General rule.* Under the provisions of section 4221(c), if an article subject to tax under chapter 32 of the Code is sold free of tax by the manufacturer of the article for an exempt purpose referred to in section 4221(c) and paragraph (b)(2) of this section, the manufacturer shall be relieved of any tax liability under chapter 32 with respect to such sale if the manufacturer in good faith accepts a proper certification by the purchaser that the article or articles will be used by the purchaser in the stated exempt manner. See paragraph (b)(2) of this section for a list of the exempt purposes referred to in section 4221(c).

(2) The following are situations wherein section 4221(c) is applicable with respect to sales made tax free on the assumption that one of the following sections of the Code provides exemption for such sales:

(i) Section 4221(a)(1), to the extent that it relates to sales for further manufacture by a first purchaser (see § 48.4221-2).

(ii) Section 4221(a)(3), relating to supplies for vessels and aircraft (see § 48.4221-4).

(iii) Section 4221(a)(4), relating to sales to State or local governments (see § 48.4221-5).

(iv) Section 4221(a)(5), relating to sales to nonprofit educational organizations (see § 48.4221-6).

(v) Section 4063(a)(6), relating to sales of bus chassis or bodies for use in mass transportation (see regulations thereunder).

(vi) Section 4063(a)(7), relating to sales of certain automotive articles as trash containers (see regulations thereunder).

(vii) Section 4063(b), relating to the sale of automotive bodies to manufacturers of trucks or other automobiles (see regulations thereunder).

(viii) Section 4083, relating to the sale of gasoline to a producer of gasoline (see regulations thereunder).

(ix) Section 4093, relating to the sale of lubricating oil to a manufacturer or producer of lubricating oil (see regulations thereunder).

(x) Section 4221(e)(5), relating to certain sales of school buses (see § 48.4221-9).

(3) *Situations wherein section 4221(c) is not applicable.* The relief from liability for the payment of tax provided by section 4221(c) is not applicable with respect to sales made tax free on the assumption that one of the following sections of the Code provides exemption for such sales:

(i) Section 4221(a)(1), to the extent that it relates to sales for resale to a second purchaser for use by the second purchaser in further manufacture (see § 48.4221-2).

(ii) Section 4221(a)(2), relating to sales for export (see § 48.4221-3).

(iii) Section 4221(e)(2), relating to sales of tires and inner tubes (see § 48.4221-7), and

(iv) Section 4221(e)(4), relating to certain sales of bicycle tires and inner tubes (see § 48.4221-8).

(4) *Duty of seller to ascertain validity of tax-free sale.* If the manufacturer at the time of its sale has reason to believe that the article sold by it is not intended for the exempt purpose indicated by the purchaser, or that the purchaser has failed to register as required, the manufacturer is not considered to have accepted certification from the purchaser in good faith, and is not relieved from liability under the provisions of section 4221(c).

(5) *Information to be furnished to purchaser.* A manufacturer selling articles free of tax under this section after December 31, 1978, shall indicate to the purchaser that (i) certain articles normally subject to tax are being



sold tax free and (ii) the purchaser is obtaining those articles tax free for an exempt purpose under an exemption certificate or its equivalent. The manufacturer may transmit this information by any convenient means, such as coding of sales invoices, provided that the information is presented with sufficient particularity so that the purchaser is informed that he has obtained the articles tax free and—

(i) the purchaser can compute and remit the tax due if an article sold tax free for further manufacture is diverted to a taxable use,

(ii) The manufacturer can remit the tax due with respect to an article purchased tax free for resale for use in further manufacture or for export if, within the 6-month period described in § 48.4221-2(c) or § 48.4221-3(c), the manufacturer does not receive proof that the article has been exported or resold for use in further manufacture, or

(iii) the purchaser can notify the manufacturer if an article otherwise purchased tax free is diverted to a taxable use.

(c) *Evidence required in support of tax-free sales*—(1) *Purchasers required to be registered.* Every purchaser who is required to be registered (see § 48.4222(a)-1) shall furnish to the seller, as evidence in support of each tax-free sale made by the seller to such purchaser, the exempt purpose for which the article or articles are being purchased and the registration number of the purchaser. Such information must be in writing and may be noted on the purchase order or other document furnished by the purchaser to the seller in connection with each sale.

(2) *Purchasers not required to be registered.* For the evidence which purchasers not required to register must furnish to the seller in support of each tax-free sale made by the seller to such purchasers, see paragraph (b) of § 48.4221-3 for sales or resales to a foreign purchaser for export, paragraph (d) of § 48.4221-4 for sales of supplies to vessels or aircraft, paragraph (c) of § 48.4221-5 for sales to State and local governments, and paragraph (c) of § 48.4222(b)-1 for sales and purchases by the United States.

§ 48.4221-2 Tax-free sale of articles to be used for, or resold for, further manufacture.

(a) *Further manufacture*—(1) *In general.* Under prescribed conditions, an article subject to tax under chapter 32 (other than a tire or inner tube taxable under section 4071, which are given special treatment under sections 4221(e) (2) and (4), and §§ 48.4221-7 and 48.4221-8) may be sold tax free by the manufacturer, pursuant to section 4221(a)(1), for use by the purchaser in further manufacture, or for resale by

the purchaser to a second purchaser for use by the second purchaser in further manufacture. See section 4221(d)(6) and paragraph (b) of this section for the circumstances under which an article is considered to have been sold for use in further manufacture. See section 6416(b)(3) and § 48.6416(b)-3 for the circumstances under which credit or refund is available when tax-paid articles are used in further manufacture.

(2) *Tires and tubes.* The provisions of this paragraph do not apply with respect to a tire or inner tube (including a bicycle tire or inner tube) taxable under section 4071. See §§ 48.4221-7 and 48.4221-8 for the circumstances under which such tires and tubes may be sold tax free for resale on or in connection with other articles.

(3) *Proof of resale for use in further manufacture.* See section 4221(b)(1) and paragraph (c) of this section for provisions under which the exemption provided in section 4221(a)(1) shall cease to apply in the case of an article sold by the manufacturer to a purchaser for resale to a second purchaser for use in further manufacture unless the manufacturer receives timely proof of resale for further manufacture.

(b) *Circumstances under which an article is considered to have been sold for use in further manufacture.* (1) For purposes of the exemption from the manufacturers excise tax provided by section 4221(a)(1), an article shall be treated as sold for use in further manufacture if—

(i) The article (other than an article referred to in subdivision (ii) of this paragraph (b)(1)) is sold for use by the purchaser as material in the manufacture or production of, or as a component part of, another article taxable under chapter 32 of the Code;

(ii) In the case of an automotive part or accessory taxable under section 4061(b), such article is sold for use by the purchaser as material in the manufacture or production of, or as a component part of, another article (whether or not taxable under chapter 32);

(iii) In the case of gasoline taxable under section 4081 and sold after September 30, 1961, the gasoline is sold for use by the purchaser, for nonfuel purposes, as a material in the manufacture or production of another article.

(2) An article is used as material in the manufacture or production of, or as a component of, another article if it is incorporated in, or is a part or accessory of, the other article when the other article is sold by the manufacturer. Lubricating oil in the crankcase of a new taxable truck is an example of a taxable article used as material in the manufacture or production of, or

as a component part of, another article. In addition, an article (other than gasoline used as a fuel) is considered to be used as material in the manufacture of another article if it is consumed in whole or in part in testing such other article; for example, shells or cartridges that are used by the manufacturer of firearms to test new firearms. However, an article that is consumed in the manufacturing process other than in testing, so that it is not a physical part of the manufactured article, is not considered to have been used as material in the manufacture of, or as a component part of, another article. Thus, lubricating oil used in operating plant machinery in the course of the manufacture of automobile truck chassis, is not used as material in the manufacture of, or as a component part of, the truck chassis.

(3) Effective January 1, 1965, the rebuilding of automobile parts or accessories, exempt from tax under section 4063(c), shall not be considered as the manufacture or production of such parts or accessories. Therefore, a rebuilder may not purchase new parts or accessories tax free under section 4221(a)(1) or paragraph (a) of this section for use in the rebuilding by him of automobile parts or accessories. For application of the use tax to new parts or accessories used in rebuilding, see paragraph (d)(1) of § 48.4218-1.

(c) *Proof of resale for further manufacture*—(1) *Cessation of exemption.* The exemption provided in section 4221(a)(1) and described in paragraph (a) of this section in respect of an article sold by the manufacturer to a purchaser for resale to a second purchaser for use by the second purchaser in further manufacture shall cease to apply on the first day following the close of the 6-month period which begins on the date of the sale of such article by the manufacturer, or the date of shipment of the article by the manufacturer, whichever is earlier, unless, within such 6-month period, the manufacturer receives proof, in the form prescribed by paragraph (c)(2) of this section, that the article was actually resold by the purchaser to a second purchaser for such use. If, on the first day following the close of the 6-month period, such proof has not been received, the manufacturer shall become liable for tax at that time at the rate in effect when the sale was made but otherwise in the same manner as if the article had been sold by it on such first day at a taxable price equivalent to that at which the article was actually sold. If the manufacturer later obtains such proof, it may file a claim for refund or credit in accordance with and to the extent provided by section 6416(b)(3)(A). See section 4221(d)(6) and paragraph (b) of this section for the circumstances under which an article is considered to have been sold for use in further manufacture.



(2) *Proof of resale*—(i) *Certificate of purchaser*. The proof of resale to be received by the manufacturer, as required under section 4221(b)(1), may consist of either a copy of the invoice of the manufacturer's vendee directed to his purchaser which discloses the certificate of registry number held by each party or a statement described below. In the case of an invoice of manufacturer's vendee, it must appear from such invoice (or by statement attached thereto) that the article was in fact resold for use in further manufacture. In lieu of such an invoice, proof of resale may consist of a statement, executed and signed by the manufacturer's vendee. Such statement shall be in substantially the following form:

**STATEMENT OF MANUFACTURER'S VENDEE**

(To support tax-free sales of taxable articles to a purchaser for resale to a second purchaser for use in further manufacture (section 4221(a)(1) of the Internal Revenue Code).)

(Date) \_\_\_\_\_, 19\_\_\_\_.  
The undersigned, \_\_\_\_\_ or \_\_\_\_\_ (Name of manufacturer's vendee if other than undersigned, of which I am \_\_\_\_\_ (Title), holds certificate of registry No. \_\_\_\_\_, issued by the District Director of Internal Revenue at \_\_\_\_\_.

The article or articles specified below or on the reverse side hereof were purchased tax free by me, \_\_\_\_\_ or \_\_\_\_\_ (Name of manufacturer's vendee if other than undersigned), on \_\_\_\_\_ (Date) and were thereafter resold to a purchaser who holds certificate of registry No. \_\_\_\_\_, issued by the District Director of Internal Revenue at \_\_\_\_\_, for use by it as material in the manufacture or production of, or as a component part or parts of, an article or articles taxable under chapter 32 of the Internal Revenue Code, or, if the article or articles are automobile parts or accessories (to which section 4061(b) applies) or gasoline, for use by it as material (for nonfuel uses in the case of gasoline) in the manufacture or production of, or as a component part or parts of, any article or articles.

The undersigned, \_\_\_\_\_ or \_\_\_\_\_ (Name of manufacturer's vendee if other than undersigned), has in my/its possession proof of tax-free resale of such article or articles in the form of related purchase orders and sales invoices, and proof of tax-free resale will be retained by me \_\_\_\_\_ (Name of manufacturer's vendee if other than undersigned), for at least 3 years from the date of this statement, and will be made readily available for inspection by Government officers during such 3-year period.

I have not previously executed a statement in respect of such certificate of resale, and I understand that the fraudulent use of this statement may subject me and all parties making such fraudulent use of this statement to a fine of not more than \$10,000, or imprisonment for not more than 5 years, or both, together with the costs of prosecution.

(Signature) \_\_\_\_\_

(Address) \_\_\_\_\_

(ii) *Period covered*. Any statement executed and signed by the manufacturer's vendee, as provided in subdivision (i) of this paragraph (c)(2), may be executed with respect to any one or more articles purchased tax free from a manufacturer and resold for use in further manufacture within the 6-month period prescribed in section 4221 (a)(1) and paragraph (c)(1) of this section. Such statement (or other prescribed proof of resale) must be retained for inspection by the district director as provided in section 6001.

**§ 48.4221-3 Tax-free sale of articles for export, or for resale by the purchaser to a second purchaser for export.**

(a) *In general*. An article subject to tax under chapter 32 of the Code may be sold tax free by the manufacturer, pursuant to section 4221(a)(2) and this section, for export, or for resale by the purchaser to a second purchaser for export. See paragraph (a)(10) of § 48.0-2 for the meaning of the term "export". An article may be sold tax free by the manufacturer under the provisions of this section only if the person to whom the manufacturer sells the article intends either to export the article or to resell it to a person who intends to export it. An article may not be sold tax free under the provisions of this section by a manufacturer to a purchaser for resale to a second purchaser which does not intend to export the article itself but plans to resell it to a third purchaser for export. See section 6416 (b)(2)(A) and paragraph (b)(1) of § 48.6416(b)-2 for the circumstances under which credit or refund of tax is available where tax-paid articles are exported from the United States.

(b) *Sales or resales to a foreign purchaser for export*. In the case of sales or resales to a foreign purchaser for export, where the first purchaser or the second purchaser is located in a foreign country or possession of the United States, such purchaser is not required to register as provided in section 4222(a) and § 48.4222(a)-1. To establish the right to sell articles tax free for export to a purchaser who is not registered and who is located in a foreign country or a possession of the United States, the manufacturer must obtain from such purchaser at the time title to the article passes or at the time of shipment, whichever is earlier, either—

(1) A written order or contract of sale showing that the manufacturer is to ship the article to a foreign destination; or

(2) Where delivery by the manufacturer is to be made within the United States, a statement from the purchaser showing—

(i) That the article is purchased either to fill existing or future orders

for delivery to a foreign destination or for resale to another person engaged in the business of exporting who will export the article, and

(ii) That such article will be transported to its foreign destination in due course prior to use or further manufacture and prior to any resale except for export.

See section 4221(b) and paragraphs (c) and (d) of this section for requirements as to timely proof of exportation and cessation of the exemption for export unless the evidence to show actual exportation has been received by the manufacturer.

(c) *Cessation of exemption*. The exemption provided in section 4221(a)(2) and paragraph (a) of this section for an article sold by the manufacturer for export or for resale by the purchaser to a second purchaser for export shall cease to apply on the first day following the close of the 6-month period which begins on the date of the sale of the article by the manufacturer, or the date of shipment of the article by the manufacturer, whichever is earlier, unless within the 6-month period the manufacturer receives proof, in the form prescribed by paragraph (d) of this section, that the article was actually exported. If, on the first day following the close of the 6-month period, the proof has not been received, the manufacturer shall become liable for tax at that time at the rate in effect when the sale was made but otherwise in the same manner as if the article had been sold by it on such first day at a taxable price equivalent to that at which the article was actually sold.

(d) *Proof of exportation*. (1) Exportation may be evidenced by—

(i) A copy of the export bill of lading issued by the delivering carrier,

(ii) A certificate by the agent or representative of the export carrier showing actual exportation of the article,

(iii) A certificate of landing signed by a customs officer of the foreign country to which the article is exported,

(iv) Where the foreign country has no customs administration, a statement of the foreign consignee showing receipt of the article, or

(v) Where a department or agency of the United States Government is unable to furnish any one of the foregoing four types of proof of exportation, a statement or certification on the department or agency stationery, executed by an authorized officer, that the listed or identified articles have, in fact, been exported.

(2) In any case where the manufacturer is not the exporter, the manufacturer must have in its possession a statement from the vendee to whom the manufacturer sold the article stating that the article was in fact exported in due course by the vendee or was



sold to another person who in due course exported the article. The statement must state what evidence is available to establish that the article was in fact exported in due course prior to use or further manufacture and prior to resale in the United States other than for export. Such evidence must be that described in paragraph (d)(1) of this section, and the statement must show where such evidence is readily available for inspection by Government officers, and should be in substantially the following form:

STATEMENT OF MANUFACTURER'S VENDEE

(To support tax-free sales of taxable articles to a purchaser for export or for resale to a second purchaser for export (section 4221(a)(2) of the Internal Revenue Code).)

The undersigned, or the \_\_\_\_\_ (Name of manufacturer's vendee if other than undersigned) of which I am \_\_\_\_\_ (Title) holds certificate of registry No. \_\_\_\_\_, issued by the District Director of Internal Revenue at \_\_\_\_\_.

The article or articles specified below or on the reverse side hereof were purchased tax free by me or by \_\_\_\_\_ (Name of manufacturer's vendee if other than undersigned) on \_\_\_\_\_ (Date), and were thereafter exported.

The undersigned or \_\_\_\_\_ (Name of manufacturer's vendee if other than undersigned) has in my/its possession proof of exportation in respect of such article or articles. The evidence of export available is \_\_\_\_\_ and is located at \_\_\_\_\_ (If other than address below). Such proof of exportation will be retained by \_\_\_\_\_ (Name of manufacturer's vendee) for at least 3 years from the date of this statement and will be made readily available for inspection by Government officers.

I have not previously executed a statement in respect of the article or articles covered by this statement, and I understand that the fraudulent use of this statement will subject me and all parties making such fraudulent use of this statement to a fine of not more than \$10,000, or imprisonment for not more than 5 years, or both, together with the costs of prosecution.

(Signature and date)  
\_\_\_\_\_  
(Address)  
\_\_\_\_\_

(3) The statement executed and signed by the manufacturer's vendee, as provided in paragraph (d)(2) of this section, may be executed with respect to any one or more articles purchased tax free from a manufacturer and exported within the 6-month period prescribed in section 4221(b)(2) and paragraph (c) of this section. Such statement shall be kept for inspection by the district director as provided in section 6001 and the regulations thereunder.

§ 48.4221-4 Tax-free sale of articles for use by the purchaser as supplies for vessels or aircraft.

(a) *Supplies for vessels or aircraft—*

(1) *In general.* An article subject to tax under chapter 32 may be sold tax free by the manufacturer, pursuant to section 4221(a)(3) and this section, for use by the purchaser as supplies for vessels or aircraft. See paragraph (b) of this section for the meaning of the term "supplies for vessels or aircraft." An article may be sold tax free under the provisions of this section only in those cases where the sale of an article by the manufacturer is made directly to the owner, officer, charterer, or authorized agent of a vessel or aircraft for use as supplies for the vessel or aircraft. No sale may be made tax free to a dealer for resale for use as supplies for vessels or aircraft, even though it is known at the time of sale by the manufacturer that the article will be so resold. See section 6416(b)(2)(B) and paragraph (b)(2) of § 48.6416 (b)-2 for circumstances under which credit or refund of tax is available where tax-paid articles are used, or sold for use, as supplies for vessels or aircraft. An article may not be sold tax free under the provisions of this section by the manufacturer to passengers or members of the crew of a vessel or aircraft.

(2) *Civil aircraft of foreign registry.* In the case of any article sold by the manufacturer for use by the purchaser as supplies for civil aircraft of foreign registry employed in foreign trade or in trade between the United States and any of its possessions, the provisions of this paragraph apply only if the reciprocity requirements of section 4221(e)(1) are met. See paragraph (c) of this section.

(b) *Meaning of terms—*(1) *Supplies for vessels or aircraft.* The term "supplies for vessels or aircraft" means fuel supplies, ships' stores, sea stores, or legitimate equipment on vessels of war of the United States or of any foreign nation, vessels employed in the fisheries or in the whaling business, or vessels 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.

(2) *Fuel supplies, ships' stores, and legitimate equipment.* The terms "fuel supplies", "ships' stores", and "legitimate equipment" include all articles, materials, supplies, and equipment necessary for the navigation, propulsion, and upkeep of vessels of war of the United States or of any foreign nation, vessels employed in the fisheries or in the whaling business, or vessels actually engaged in foreign trade or in trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions, even though such vessels may make intermediate stops in

the United States. The term does not include supplies for vessels engaged in trade (i) between domestic ports in the Atlantic Ocean and the Gulf of Mexico, (ii) between domestic ports on the Pacific Ocean, (iii) between domestic ports on the Great Lakes, or (iv) on the inland waterways of the United States.

(3) *Sea stores.* The term "sea stores" includes any article purchased for use or consumption by the passengers or crew, or both, of a vessel during its voyage.

(4) *Vessels.* The term "vessel" includes (i) every description of watercraft or other contrivance used, or capable of being used, as a means of transportation on water, (ii) civil aircraft registered in the United States and employed in foreign trade or in trade between the United States and any of its possessions, and (iii) civil aircraft registered in a foreign country and employed in foreign trade or in trade between the United States and any of its possessions.

(5) *Vessels of war of the United States or of any foreign nation.* The term "vessels of war of the United States or of any foreign nation" includes (i) every description of watercraft or other contrivance used, or capable of being used, as a means of transportation on water and constituting equipment of the armed forces (including the U.S. Coast Guard and U.S. National Guard) of the United States or of a foreign nation, and (ii) aircraft owned by the United States or by any foreign nation and constituting equipment of the armed forces thereof. For purposes of this section, vessels or aircraft owned by armed forces are not considered to be equipment of such armed forces while on lease or loan to an organization that is not part of the armed forces.

(6) *Vessels used in fisheries or whaling business.* The exemption provided by section 4221(a)(3) and paragraph (a) of this section in the case of articles sold for the prescribed use on vessels employed in the fisheries or whaling business is limited to articles sold by the manufacturer for such use on vessels while employed, and to the extent employed, exclusively in the fisheries or in the whaling business. For purposes of this section, vessels engaged in sport fishing are not considered to be employed in the fisheries.

(7) *Civil aircraft.* The exemption provided by section 4221(a)(3) and paragraph (a) of this section relating to supplies for vessels or aircraft, with respect to civil aircraft, extends only to civil aircraft when employed in foreign trade, or in trade between the United States and any of its possessions. Sales of supplies to civil aircraft when engaged in trade between the Atlantic and the Pacific ports of the



United States are not exempt from the tax imposed under chapter 32. See section 4221(e)(1) and paragraph (c) of this section for requirement of reciprocal exemption in the case of a civil aircraft registered in a foreign country.

(8) *Trade.* The term "trade" includes the transportation of persons or property for hire and the making of the necessary preparations for such transportation. The term "trade" also includes the transportation of property on a vessel or aircraft owned or chartered by the owner of the property in connection with the purchase, sale, or exchange of the property in a commercial business operation. However, a vessel owned or chartered by a company and used in the transportation of personnel or property of such company to or from its business properties located in a foreign country, or in a possession of the United States, is not engaged in "trade".

(c) *Reciprocity required in the case of civil aircraft.* The exemption provided by section 4221(a)(3) and paragraph (a) of this section with respect to the sales of supplies for civil aircraft registered in a foreign country is further limited in that the privilege of exemption may be granted only if the Secretary of Commerce advises the Secretary of the Treasury that the foreign country allows, or will allow, substantially the same reciprocal privileges. If a foreign country discontinues the allowance of such substantially reciprocal exemption, the exemption allowed by the United States will not apply after the Secretary of the Treasury is notified by the Secretary of Commerce of the discontinuance of the exemption allowed by the foreign country.

(d) *Evidence required to establish exemption—(1) In general.* The exemption provided in section 4221(a)(3) and paragraph (a) of this section for articles sold for use by the purchaser as supplies for vessels or aircraft applies only (i) if both the manufacturer and purchaser are registered under the provisions of section 4222 or (ii) the purchaser or both the manufacturer and the purchaser are not registered but have satisfied the provisions of paragraph (d)(2) of this section. See paragraph (c) of § 48.4221-1 for the evidence required to establish exemption where the purchaser is registered pursuant to section 4222 and § 48.4222(a)-1.

(2) *Exemption certificates for use in support of tax-free sales of supplies for vessels and aircraft.* (i) In order to establish exemption from tax under section 4221(a)(3) in those instances where the purchaser or both the manufacturer and purchaser are not registered under section 4222, the manufacturer must obtain (prior to or at the time of the sale) from the owner, char-

terer, or authorized agent of the vessel or aircraft and retain in the manufacturer's possession a properly executed exemption certificate in the form prescribed by subdivision (iii) of this paragraph (d)(2). If articles are sold tax free for use as supplies for civil aircraft employed in foreign trade or in trade between the United States and any of its possessions, the exemption certificate must show the name of the country in which the aircraft is registered.

(ii) Where only occasional sales of articles are made to a purchaser for use as supplies for vessels or aircraft, a separate exemption certificate shall be furnished for each order. However, where sales are regularly or frequently made to a purchaser for such exempt use, a certificate covering all orders for a specified period not to exceed 12 calendar quarters will be acceptable. Such certificates and proper records of invoices, orders, etc., relative to tax-free sales must be kept for inspection by the district director as provided in section 6001 and the regulations thereunder.

(iii) *Acceptable form of exemption certificate.* The following form of exemption certificate will be acceptable for the purposes of this section and must be adhered to in substance:

#### EXEMPTION CERTIFICATE

(For use by purchasers of articles for use as fuel supplies, ships stores, sea stores, of legitimate equipment on certain vessels or aircraft (sections 4221 and 4222 of the Internal Revenue Code of 1954).)

(Date) \_\_\_\_\_, 19\_\_\_\_.

I, the undersigned purchaser, hereby certify that I am the \_\_\_\_\_ (Owner, charterer, or authorized agent) of \_\_\_\_\_ (Name of company and vessel) and that: (Check applicable type of certificate)

\_\_\_\_\_ the article or articles specified in the accompanying order, or on the reverse side hereof, (or)

\_\_\_\_\_ all orders placed by the purchaser for the period commencing (Date) \_\_\_\_\_ and ending (Date) \_\_\_\_\_ (period not to exceed 12 calendar quarters), will be used only for fuel supplies, ships' stores, sea stores, or legitimate equipment on a vessel belonging to one of the following classes of vessels to which section 4221 of the Internal Revenue Code applies: (Check class to which vessel belongs.)

- ..... (1) Vessels engaged in foreign trade.
- ..... (2) Vessels engaged in trade between the Atlantic and Pacific ports of the United States.
- ..... (3) Vessels engaged in trade between the United States and any of its possessions.
- ..... (4) Vessels employed in the fisheries or whaling business.
- ..... (5) Vessels of war of the United States or a foreign nation.

If the articles are purchased for use on civil aircraft engaged in trade as specified in (1) or (3) above, state the name of the country in which the aircraft is registered:

I understand that if the articles are used for any purpose other than as stated in this

certificate, or are resold or otherwise disposed of, I must report such fact to the manufacturer. I understand that this certificate may not be used in purchasing articles tax free for use as fuel supplies, etc., on pleasure vessels, or on any type of aircraft except that (i) civil aircraft employed in foreign trade or trade between the United States and any of its possessions, and (ii) aircraft owned by the United States or any foreign country and constituting a part of the armed forces thereof.

I understand that the fraudulent use of this certificate to secure exemption will subject me and all parties making such fraudulent use of this certificate to a fine of not more than \$10,000, or to imprisonment for not more than 5 years, or both, together with costs of prosecution. I also understand that I must be prepared to establish by satisfactory evidence the purpose for which the article was used.

(Signature) \_\_\_\_\_

(Address) \_\_\_\_\_

#### § 48.4221-5 Tax-free sale of articles to States and local governments for their exclusive use.

(a) *In general.* An article subject to tax under chapter 32 of the Code may be sold tax free by the manufacturer, pursuant to section 4221(a)(4) and this section, to a State or local government for the exclusive use of such State or local government. See paragraph (b) of this section for the meaning of the term "State or local government". An article may be sold tax free by the manufacturer under this paragraph only in those cases where the sale is made directly to a State or local government for its exclusive use. Accordingly, no sale may be made tax free to a dealer for resale to a State or local government for its exclusive use, even though it is known at the time of sale by the manufacturer that the article will be so resold. A sale of an article to a State or local government for resale is not considered to be a sale for the "exclusive use" of the State or local government, within the meaning of section 4221(a)(4), and, therefore, such sales may not be made tax free. Such sales are not exempt regardless of whether the resales are made to government employees, or the fact that the article is an item of equipment the employee is required to possess in carrying out his duties. For example, pistols or revolvers may not be sold tax free to a State or local government for resale to its police officers. See section 6416(b)(2)(C), and paragraph (b)(3) of § 48.6416(b)-2, for the circumstances under which credit or refund of tax is available where tax-paid articles are sold for the exclusive use of a State or local government.

(b) *State or local government.* The term "State or local government" includes any State, the District of Columbia, and any political subdivision of any of the foregoing.



(c) *Evidence required in support of tax-free sales to States or local governments.* (1) In the case of a State or local government which is registered (see § 48.4222(b)-1 for provisions under which a State or local government may register if it so desires), the provisions of paragraph (c) of § 48.4221-1 have application as to the evidence required in support of tax-free sales. If a State or local government is not registered, the evidence required in support of a tax-free sale to the State or local government shall, except as provided in paragraph (c)(2) of this section, consist of a certificate, executed and signed by an officer or employee authorized by the State or local government to execute and sign the certificate. If it is impracticable to furnish a separate certificate for each order or contract because of a frequency of purchases, a certificate covering all orders between given dates (such period not to exceed 12 calendar quarters) will be acceptable. The certificates and proper records of invoices, orders, etc., relative to tax-free sales must be retained by the manufacturer as provided in section 6001 and the regulations thereunder. The certificate shall be in substantially the following form:

EXEMPTION CERTIFICATE

(For use by States and local governments (section 4221(a)(4) of the Internal Revenue Code))

(Date) \_\_\_\_\_, 19\_\_\_\_.

I hereby certify that I am \_\_\_\_\_ (Title of Officer) of \_\_\_\_\_ (State or local government) that I am authorized to execute this certificate; and that:

(Check applicable type of certificate)

— the article or articles specified in the accompanying order, or on the reverse side hereof, (or)

— all orders placed by the purchaser for the period commencing \_\_\_\_\_ (Date) and ending \_\_\_\_\_ (Date) (period not to exceed 12 calendar quarters), are, or will be, purchased from \_\_\_\_\_ (Name of manufacturer)

for the exclusive use of \_\_\_\_\_ (Governmental unit) of \_\_\_\_\_ (State or local government).

I understand that the exemption from tax in the case of sales of articles under this exemption certificate to a State, etc., is limited to the sale of articles purchased for its exclusive use. I understand that the fraudulent use of this certificate for the purpose of securing this exemption will subject me and all parties making such fraudulent use of this certificate to a fine of not more than \$10,000, or to imprisonment for not more than 5 years, or both, together with costs of prosecution.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Address)

(2) A purchase order, provided that all of the information required by paragraph (c)(1) of this section is in-

cluded therein, is acceptable in lieu of a separate exemption certificate.

(d) *Resale of articles purchased tax free by a State or local government.* If articles purchased tax free for the exclusive use of a State or local government (whether on the basis of a registration number or an exemption certificate) are prior to use by the State or local government resold under circumstances that do not amount to an exclusive use by the State or local government (such as gasoline that is resold by a volunteer fire department to volunteer firemen), the parties responsible in the State or local government are required to inform the manufacturer, producer, or importer from whom the articles were purchased that they were disposed of in a manner that did not amount to an exclusive use by the State or local government. A willful failure to supply the manufacturer, producer, or importer with the information required by this subparagraph will subject responsible parties to the penalties provided by section 7203.

§ 48.4221-6 Tax-free sales of articles to nonprofit educational organizations.

(a) *In general.* An article subject to tax under chapter 32 of the Code may be sold tax free by the manufacturer, pursuant to section 4221(a)(5) and this section, to a nonprofit educational organization for its exclusive use. See paragraph (b) of this section for the meaning of the term "nonprofit educational organization". An article may be sold tax free by the manufacturer under this paragraph only in those cases where the sale of an article by the manufacturer is made directly to a nonprofit educational organization for its exclusive use. Accordingly, no sale may be made tax free to a dealer for resale to a nonprofit educational organization for its exclusive use even though it is known at the time of sale by the manufacturer that the article will be so resold. See section 6416(b)(2)(D), and paragraph (b)(4) of section 48.6416(b)-2, for the circumstances under which credit or refund of tax is available where tax-paid articles are sold for the exclusive use of a nonprofit educational organization.

(b) *Nonprofit educational organization.* The term "nonprofit educational organization" means an organization described in section 170(b)(1)(A)(ii) that is exempt from income tax under section 501(a). Section 170(b)(1)(A)(ii) describes an "educational organization" as one that normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. The term also includes a school operated as an activity of an organization described in section 501(c)(3) which is exempt from

income tax under section 501(a), provided the primary function of such school is the presentation of formal instruction and provided such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.

(c) *Evidence required in support of tax-free sales to nonprofit educational organizations.* Every nonprofit educational organization purchasing tax free under section 4221(a)(5) must furnish the following information to the seller:

(1) The exempt purpose for which the article or articles are being purchased, and

(2) Its registration number, and the district director's office that issued the registration number.

Such information must be in writing and may be noted on the purchase order or other document furnished by the purchaser to the seller in connection with each sale. See paragraph (c) of § 48.4221-1 for the evidence required to establish exemption.

§ 48.4221-7 Tax-free sales of tires and tubes.

(a) *In general.* A manufacturer of tires or inner tubes that are taxable under section 4071 may sell such articles tax free if the sale meets the conditions prescribed in section 4221(e)(2) and paragraph (a) (1) and (2) of this section. The following are conditions under which articles taxable under section 4071 may be sold tax free:

(1) The tire or tube is sold for use by the purchaser for sale on or in connection with the sale of another article manufactured or produced by the purchaser; and

(2) The other article is to be sold in a tax-free sale by the purchaser for export, for use as supplies for vessels or aircraft, to a State or local government for its exclusive use, or to a nonprofit educational organization for its exclusive use, or the other article is to be sold by the purchaser for any of such purposes in a sale which would be tax-free but for the fact that the other article is not subject to tax under chapter 32 of the Code.

See section 6416(b)(2)(F) and paragraph (b)(6) of § 48.6416(b)-2 for the circumstances under which credit or refund of tax is available for tax-paid tires or tubes that are resold for the purposes described in this paragraph (a).

(b) *Registration requirements.* In order to effect a tax-free sale under section 4221(e)(2)(A), both the manufacturer and purchaser (except for purchasers who are exempt from the registration requirement under § 48.4222(b)-1) must be registered with



the District Director of Internal Revenue as required in § 48.4222(a)-1. At the time of sale, the registration number assigned to the purchaser by the district director together with the purpose for which the article was purchased must be shown on (or attached to) the invoice, purchase order, or other document used for the sale.

(c) *Proof required in support of tax-free sales of tires and tubes.*—(1) *Cessation of exemption.* The exemption allowed under section 4221(e)(2)(A) and this section on the sale of a tire or inner tube shall cease to apply unless, within the 6-month period which begins on the date of the tax-free sale by the manufacturer of such article (or, if earlier, on the date of shipment by such manufacturer), the manufacturer receives proof from the purchaser that such article has been used on or in connection with the sale of another article which has been sold for one of the tax-exempt purposes referred to in paragraph (a)(2) of this section. If the manufacturer has not received the required information within such 6-month period, the temporary suspension of the liability for the payment of the tax ceases, and the manufacturer shall include the tax on the sale of the tire or inner tube in his return for the period in which the 6-month period expires. If the required information is received after the expiration of the 6-month period, the manufacturer may file a claim for credit or refund of tax so paid on his sale of the tire or inner tube.

(2) *Required information.* The information which the manufacturer must receive within the 6-month period, referred to in paragraph (c)(1) of this section, shall be in substantially the following form:

#### STATEMENT OF MANUFACTURER'S VENDEE

(To support tax-free sales of tires or inner tubes by the manufacturer thereof for use on or in connection with the sale of another article (section 4221(e)(2) of the Internal Revenue Code))

(Date) \_\_\_\_\_, 19\_\_\_\_.

I certify that I, or the \_\_\_\_\_, (Name of purchaser if other than undersigned) of which I am \_\_\_\_\_ (Title) am/is in the business of selling \_\_\_\_\_ (Products handled) and hold(s) certificate of registry No. \_\_\_\_\_ issued by the District Director of Internal Revenue at \_\_\_\_\_; and that the tires or inner tubes which were purchased or shipped on \_\_\_\_\_, 19\_\_\_\_, as specified on the back hereof, have been used on or in connection with the sale of \_\_\_\_\_ (Products sold) by such undersigned.

#### Check one

— for export by \_\_\_\_\_ (Name of carrier) to \_\_\_\_\_ (Name of foreign country or U.S. possession) and was so exported on \_\_\_\_\_, 19\_\_\_\_ (Date). (A copy of the bill of lading or other proof of exportation is attached.)

— for use as supplies on \_\_\_\_\_ (Name of vessel or aircraft) which is registered in \_\_\_\_\_ (Name of country in which vessel or aircraft is registered).  
— to \_\_\_\_\_ (Name of State or local government).  
— to \_\_\_\_\_ (Name and address of the nonprofit educational organization).

I understand that the fraudulent use of this certificate for the purpose of substantiating the tax-free sale will subject me and all parties making such fraudulent use of this certificate to revocation of the privilege of purchasing articles tax free and to a fine of not more than \$10,000 or to imprisonment for not more than 5 years, or both, together with costs of prosecution.

(Signature) \_\_\_\_\_

(Address) \_\_\_\_\_

#### § 48.4221-8 Tax-free sales of bicycle tires or tubes for use in further manufacture.

(a) *Exemption.* Under section 4221(e)(4), no tax attaches under chapter 32 of the Code with respect to the sale on or after May 1, 1960, of a bicycle tire, or an inner tube for a bicycle tire, by the manufacturer thereof if the tire or tube is sold for use by the purchaser as material in the manufacture of, or as a component part of, a new bicycle. However, a bicycle tire, or an inner tube for a bicycle tire, may not be sold tax free under section 4221(e)(4) for use by the purchaser as stock for resale or for use in connection with a rebuilt or reconditioned bicycle. See section 6416(b)(3)(E) for provisions relating to credit or refund of taxes paid by the manufacturer if a bicycle tire, or an inner tube for a bicycle tire, is used by the purchaser as material in the manufacture of, or as a component part of, a new bicycle.

(b) *Bicycle tire defined.* As used in paragraph (a) of this section, the term "bicycle tire" means a tire composed of rubber (as "rubber" is defined in section 4072) in combination with fabric or other reinforcing element which is not more than 28 inches in diameter and not more than 2¼ inches in cross section and which is primarily designed or adapted for use on bicycles.

(c) *Evidence of tax-free sale.* The purchaser shall note on the purchase order or other document furnished to the manufacturer by the purchaser the registration number assigned to the purchaser by the District Director of Internal Revenue as provided in § 48.4222(a)-1 and information to the effect that the bicycle tires, or inner tubes for bicycle tires, are being purchased for use in connection with his manufacture of, or as a component part of, a new bicycle.

(d) *Failure to register.* If either the manufacturer of the bicycle tires, or

inner tubes for such tires, or the purchaser thereof is not registered, as provided in § 48.4222(a)-1, a tax-free sale may not be made under section 4221(e)(4) and paragraph (a) of this section.

(e) *Proof of use.* The exemption allowed under section 4221(e)(4) and paragraph (a) of this section shall cease to apply in respect of such sale to the purchaser of the bicycle tire or inner tube, unless, within the 6-month period which begins on the date of the sale by the manufacturer of such article to the purchaser (or, if earlier, on the date of shipment by the manufacturer) the manufacturer receives proof that the bicycle tire of inner tube has been used in connection with the manufacture by such purchaser of a new bicycle, or as a component part thereof. Such proof shall be in the form of a signed statement as to such use. If within the 6-month period the manufacturer has not received such statement, the temporary suspension of the liability for the payment of the tax ceases and the manufacturer shall include the tax on the sale of the tire or inner tube in his return for the period in which the 6-month period expires. If such statement is received after such 6-month period, the manufacturer may claim a credit or refund of tax paid with respect to the sale. See section 6416(b)(3)(E) and paragraph (b)(5) of § 48.6416(b)-2.

#### § 4221-9 Tax-free sales of school buses.

(a) *In general.* Under section 4221(e)(5), the tax imposed by section 4061(a) shall not apply to the sale on or after June 22, 1965, of a bus chassis and a bus body (which have been assembled into a bus) by the manufacturer of the chassis or body or both to any person for use exclusively as a school bus in transporting students and employees of schools operated by a State or local government or by a nonprofit educational organization, if both the seller and the purchaser are registered as provided in paragraph (d) of this section. The exemption provided in section 4221(e)(5) does not apply to a bus chassis or a bus body sold separately. However, see section 4063 and the regulations thereunder, which provide an exemption from the tax imposed by section 4061(a) in the case of the sale of a body to a manufacturer of automobile trucks or other automobiles. Also, see paragraph (f) of this section for provisions relating to the credit or refund of the tax paid under section 4061(a) on a bus chassis or a bus body which has been incorporated in a bus to be used exclusively in transporting students and employees of schools operated by a State or local government or by a nonprofit educational organization.

(b) *Incidental use disregarded.* In determining whether a bus is used, or to



be used, exclusively in transporting students and employees of schools operated by a State or local government or by a nonprofit educational organization, there shall be disregarded any incidental use of the bus in providing transportation for a State or local government or a nonprofit organization described in section 501(c) which is exempt from tax under section 501(a).

(c) *Definitions*—(1) *School bus*. The term "school bus" means any type of motor vehicle consisting of a chassis and a body otherwise subject to the tax imposed by section 4061(a), that is used by any person exclusively for transporting students and employees of public schools and nonprofit educational organizations. Such vehicles may include conventional buses, converted panel trucks, etc.

(2) *State or local government*. The term "State or local government" includes any State, the District of Columbia, or any political subdivision of any of the foregoing.

(3) *Nonprofit educational organization*. The term "nonprofit educational organization" has the same meaning as that set forth in paragraph (b) of § 48.4221-6.

(d) *Registration*. The exemption from tax provided by section 4221(e)(5) on the sale of a bus chassis and bus body by the manufacturer shall apply only if both the seller and the purchaser are registered in the manner prescribed by paragraph (a) of § 48.4222(a)-1 and if the purchaser complies with the requirements of subparagraph (1) of § 48.4221-1(c).

(e) *Duty of seller to ascertain validity of tax-free sale*. If the manufacturer of the bus has knowledge at the time of its sale of the bus that the purchaser does not intend to use the bus as prescribed in section 4221(e)(5), the manufacturer is liable for the tax and is not relieved of liability by reason of the registration of the purchaser, or the provisions of section 4221(c). In any case where the manufacturer of a bus has knowledge, at the time the bus is sold tax free for use as a school bus, that the purchaser has a contract with a school operated by a State or local government or by a nonprofit educational organization for the transportation of students or employees of the school during the school year in which delivery of the bus is to be made to the purchaser (or during the next school year if delivery is to be made between school years), the seller will be considered to have accepted in good faith the purchaser's certification that the bus will be used as prescribed in section 4221(e)(5).

(f) *Credit or refund*. See section 6416(b)(2)(I) for provisions relating to credit or refund of taxes paid by the manufacturer on the sale of a chassis or body which is, prior to any other use, sold to a purchaser by any person

(either separately or as part of an assembled bus) for use (as a bus or part of a bus) exclusively in transporting students or employees of a school operated by a State or local government or by a nonprofit educational organization.

§ 48.4221-10 Cross references; other exemptions.

For exemption for articles of native Indian Handicraft manufactured or produced by Indians, see section 4225 and § 48.4225-1.

§ 48.4222(a)-1 Registration.

(a) *General rule*. Except as provided in § 48.4222(b)-1, tax-free sales under section 4221 of the Code may be made only if the manufacturer, first purchaser, and second purchaser, as the case may be, have registered as required by this section. To secure a Certificate of Registry, the applicant must furnish the information required in paragraph (b) of this section. The Commissioner, on July 3, 1973, revoked all Certificates of Registry, Form 637, issued prior to January 23, 1970, as of the close of business on December 31, 1973. Therefore, all persons subject to the registration requirements of section 4222 must hold a certificate of registry (Form 637) issued after January 22, 1970, in order to make tax-free sales or purchases after December 31, 1973.

(b) *Information to be submitted*. Except as provided in § 48.4222(b)-1, any person who is eligible to sell or purchase articles free of a tax imposed by chapter 32 and who has not registered in accordance with the provisions of this section shall, prior to making a tax-free sale or purchase, file Form 637, in duplicate, executed in accordance with the instruction contained on the reverse of Form 637. This form shall be filed with the District Director of Internal Revenue for the district in which the principal place of business of the applicant is located (or if the applicant has no principal place of business in the United States, with the Internal Revenue Service Center, 11601 Roosevelt Boulevard, Philadelphia, Pennsylvania 19155). Copies of Form 637 may be obtained from any district director. The person who receives a validated Certificate of Registry (Validated Form 637) shall be considered to be registered for purposes of selling or purchasing articles tax free as provided in this section. In the case of a nonprofit educational organization, information shall be furnished showing that the organization is an educational organization described in section 170(b)(1)(A)(ii) that is exempt from income tax under section 501(a), or is a school operated as an activity of an organization described in section 501(c)(3) that is exempt from income tax under section 501(a).

(c) *Evidence required in support of tax-free sales*. See subparagraph (1) of § 48.4221-1(c) for evidence required in support of tax-free sales to purchasers who are required to be registered.

(d) *Failure to register*. If either the seller or purchaser is not registered as required by this section of the regulations, tax-free sales may not be made, except as indicated in § 48.4222(b)-1.

(e) *Cross references*. (1) For exceptions to the requirement for registration, see section 4222(b) and § 48.4222(b)-1.

(2) For revocation or suspension of registration, see § 48.4222(c)-1.

(3) For applicability of section 4222 and these regulations to exemptions provided by sections 4063(b), 4182(b), and 4293, see § 48.4222(d)-1.

§ 48.4222(b)-1 Exceptions to the requirement for registration.

(a) *State and local governments*. (1) A State or local government purchasing articles direct from the manufacturer for its exclusive use may, but is not required to, register as provided in § 48.4222(a)-1. To establish the right to sell articles tax free to a State or local government that is not registered, the manufacturer must obtain from an authorized official of the State or local government and retain in the manufacturer's possession either a properly executed exemption certificate, or a purchase order that contains the same information required to be furnished in an exemption certificate. See paragraph (c) of § 48.4221-5 for the information necessary to substantiate a tax-free sale under such circumstances.

(2) Each State requesting registration will be assigned one Certificate of Registry. The registration number shown on this certificate may be used by all agencies, boards, and commissions of the State that are authorized by the State to make purchases for the exclusive use of the State. However, the registration number assigned to a State may not be used by any political subdivision of that State, such as a county or municipality. Each political subdivision of a State desiring to obtain a Certificate of Registry must obtain a separate registration number.

(b) *Sales or resales to foreign purchasers for export*. Persons whose principal place of business is not within the United States may, but are not required to, register in order to purchase articles tax free for export. To establish the right to sell articles tax free for export to a purchaser who is not registered and who is located in a foreign country or a possession of the United States, the manufacturer must obtain the evidence required by paragraph (b) of § 48.4221-3.

(c) *United States*. Except as provided in paragraph (f) of § 48.4222 (d)-1 (relating to sales to the American Red



Cross) the registration requirements of the regulations in this part do not apply to purchases and sales by the United States or any of its agencies or instrumentalities. The evidence required in support of such tax-free purchases and sales is a notation on the purchase order or other document furnished to the seller clearly indicating that the article or articles are being purchased tax free as authorized by chapter 32 of the Code.

(d) *Supplies for vessels and aircraft.* An article subject to an excise tax imposed by chapter 32 of the Code may be sold tax free by the manufacturer under the provisions of § 48.4221-4 for use by the purchaser as supplies for a vessel or aircraft if both the manufacturer and the purchaser are registered under the provisions of § 48.4222 (a)-1. The article also may, on or after July 1, 1965, be sold tax free for such use even though neither the manufacturer nor the purchaser is so registered if the provisions of paragraph (d) of § 48.4221-4 are satisfied.

**§ 48.4222 (c)-1 Revocation or suspension of registration.**

The district director or the Director of International Operations, as the case may be, is authorized to revoke or temporarily suspend, upon written notice, the registration of any person and the right of such person to sell or purchase articles tax free under section 4221 of the Code in any case in which he finds that (1) the registrant is not a bona fide manufacturer, or a purchaser reselling direct to manufacturers or exporters; (2) the registrant is for some other reason not eligible under these regulations to retain a Certificate of Registry; (3) the registrant has used his registration to avoid the payment of any tax imposed by chapter 32 of the Code, or to postpone or interfere in any manner with the collection of such tax; (4) such revocation or suspension is necessary to protect the revenue; or (5) the registrant failed to comply with the requirements of paragraph (c) of § 48.4222 (a)-1, relating to the evidence required to support a tax-free sale. The revocation or suspension of registration is in addition to any other penalty that may apply under the law for any act or failure to act.

**§ 48.4222 (d)-1 Registration in the case of certain other exemptions.**

The registration procedure set forth in § 48.4222 (a)-1 also applies in the following cases:

(a) Tax-free sales on or after December 11, 1971, under section 4063(a)(6) of automobile bus chassis or bodies to be used predominantly by the purchaser in mass transportation in urban areas. Both the vendor and vendee must be registered. See section 4063(a)(6) and the regulations thereunder.

(b) Tax-free sales on or after December 11, 1971, under section 4063(a)(7) of boxes, containers, etc., (and parts or accessories therefor) that are to be used as trash containers. Both the vendor and vendee must be registered. See section 4063(a)(7) and the regulations thereunder.

(c) Tax-free sales under section 4063(b) of automobile bodies by the manufacturer, producer, or importer to a manufacturer or producer of automobiles to be sold by the vendee. Both the vendor and vendee must be registered. See section 4063(b) and the regulations thereunder.

(d) Tax-free sales under section 4083 of gasoline by the producer to another producer of gasoline. Both the vendor and vendee must be registered. See section 4083 and the regulations thereunder.

(e) Tax-free sales under section 4093 of lubricating oil by the manufacturer or producer direct to another manufacturer or producer of lubricating oil for resale by him. Both the vendor and the vendee must be registered. See section 4093 and the regulations thereunder.

(f) Tax-free sales under section 4293 to any corporation created by Act of Congress to act in matters of relief under the treaty of Geneva of August 22, 1864 (American Red Cross) for its exclusive use. Both the vendor and the vendee must be registered.

**§ 48.4223-1 Special rules relating to further manufacture.**

(a) *Purchasing manufacturer to be treated as the manufacturer.* For purposes of chapter 32, a manufacturer or producer to whom an article is sold or resold tax free under section 4221(a)(1) of the Code for use by it in further manufacture shall be treated as the manufacturer or producer of such article. If a manufacturer who purchases an article tax free for further manufacture does not use the article for further manufacture, the sale of the article by it, or its use of the article other than in further manufacture, shall, for purposes of the taxes imposed by chapter 32 of the Code, be treated as a sale or use of the article by the manufacturer thereof. See paragraphs (b) and (c) of this section for determination of taxable sale price where an article purchased tax free for further manufacture is resold, or used other than in further manufacture.

(b) *Computation of tax.* Except as provided in paragraph (c) of this section, the tax liability referred to in paragraph (a) of this section shall be based on the price for which the article was sold by the purchasing manufacturer, or, where the manufacturer uses the article for a purpose other than which it was purchased, the tax shall be based on the price at which

such or similar articles are sold, in the ordinary course of trade by manufacturers, producers, or importers thereof. See section 4218(e) and § 48.4218-5.

(c) *Election.* (1) Instead of computing the tax as described under paragraph (b) of this section, the purchasing manufacturer who has incurred liability for tax on its sale or use of an article as provided by paragraph (a) of this section may compute the tax incurred under chapter 32 by using as the tax base either the price for which the article was sold to it by the first purchaser, if any, or the price for which such article was sold by the actual manufacturer, producer, or importer of such article. The purchasing manufacturer must have in its possession information upon which to substantiate such basis for tax. For purposes of this paragraph, the price for which the article was sold by the actual manufacturer or by the first purchaser shall be determined as provided in section 4216 and the regulations thereunder. However, such price shall not be adjusted for any discount, rebate, allowance, return, or repossession of a container or covering, or otherwise.

(2) The election under this paragraph shall be in the form of a statement attached to the return reporting the tax applicable to the sale or use of the article which gave rise to such tax liability. Such election, once made, may not be revoked.

**§ 48.4225-1 Exemption of articles manufactured or produced by Indians.**

The exemption provided under section 4225 applies to articles taxable under chapter 32 of the Code that are of native Indian handicraft and are manufactured or produced by Indians on Indian reservations or in Indian schools, or manufactured or produced by Indians who are under the jurisdiction of the United States Government in Alaska. For purposes of this section, Indians who reside on allotments of land adjacent to an Indian reservation and are subject to the supervision, control, and jurisdiction of the Bureau of Indian Affairs are considered to be "Indians on Indian reservations".

PAR. 21. Sections 48.6011(a), 48.6011(c), 48.6011(c)-1, 48.6071(a), 48.6091, 48.6109, 48.6151, 48.6206, 48.6302(c), 48.6416(a), 48.6416(b), 48.6416(c), 48.6416(d), 48.6416(d)-1, 48.6416(e), 48.6416(f), 48.6416(g), 48.6416(h), 48.6416(i), 48.6420(a), 48.6420(b), 48.6420(c), 48.6420(d), 48.6420(e), 48.6420(f), 48.6420(g), 48.6420(h), 48.6421(a), 48.6421(b), 48.6421(c), 48.6421(d), 48.6421(e), 48.6421(f), 48.6421(g), 48.6421(h), 48.6421(i), and 48.6675 are deleted.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (88 Stat. 898, 68A Stat. 917; 26 U.S.C. 7805).

[FR Doc. 78-8412 Filed 3-27-78; 3:31 pm]



[4810-31]

**Title 27—Alcohol, Tobacco Products and Firearms**

**CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY**

[T.D. ATF-48]

**TITLE AND DEFINITION CHANGES**

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms.

**ACTION:** Final rules.

**SUMMARY:** Treasury Decision ATF-32 (41 FR 44038) described change of titles due to a reorganization of the Bureau of Alcohol, Tobacco and Firearms. The purpose of the amendments made by this Treasury decision is to implement those title changes in definitions and throughout Title 27, (except Part 71, which will be treated separately at a later date) while at the same time redefining certain other titles and phrases for the purpose of consistency throughout Title 27. Editorial changes have also been made.

**EFFECTIVE DATE:** March 31, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Primary Author: Donald R. Royce, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, Washington, D.C. 20226. 202-566-7626.

**SUPPLEMENTAL INFORMATION:** This Treasury decision implements Treasury decision T.D. ATF-32 (41 FR 44038), published October 6, 1976. T.D. ATF-32 announced a reorganization of the Bureau of Alcohol, Tobacco and Firearms, which gave rise to changes in titles of various Bureau officials and redefined the functions of others. This document provides new definitions, to be used throughout Title 27 for consistency, for the new title "Regional regulatory administrator", (formerly assistant regional director, regulatory enforcement); for the titles "Special agent in charge"; "Regional administrative officer", "ATF officer"; "Customs officer"; and "District director of customs". A new definition is also provided for the term "Region", and a current definition is provided for the title "Director" to replace obsolete definitions.

Other changes include deletion of titles no longer applicable to the Bureau, since its creation as a separate entity within the Treasury Department in 1972; and replacement of obsolete titles with current ones throughout the text of all parts of Title 27, except Part 71, which is being completely revised, and will be published in the near future. Minor editorial changes and conforming changes to section numbers are also included. The definitions which will be used as new standard definitions are spelled out below:

**Administrative law judge.** The person appointed pursuant to 5 U.S.C. 3105, designated to preside over any administrative proceedings under this part.

**ATF Officer.** An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

**Customs officer.** Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

**District director of customs.** The district director of customs at a headquarters port of the district (except the district of New York, N.Y.); the area directors of customs in the district of New York, N.Y.; and the port director at a port not designated as a headquarters port.

**Region.** A Bureau of Alcohol, Tobacco and Firearms Region.

**Regional administrative officer.** The regional official in charge of the administrative support program for all ATF functions within the region.

**Regional regulatory administrator.** The principal ATF regional official responsible for administering regulations in this part.

**Special agent in charge.** The principal official responsible for the ATF criminal enforcement program within an ATF district.

**PAR. 1.** Subparts B of 27 CFR Parts 1-8, 18, 47, 70, 72, 173, 178, 179, 181, 186, 194-197, 200-201, 211-213, 231, 240, 245, 250-252, 270, 275, 285, 290, and 295 are completely revised, to read as set forth below.

**PAR. 2.** Part 170 is revised by (1) replacing the definition of "Assistant Regional Commissioner" with the above definition of "Regional regulatory administrator" in §§ 170.86, 170.303, and 170.612; (2) by deleting the definition of "Regional commissioner" in 170.86; (3) by replacing the definition "Director of Customs" with the above definition of "District director of customs" in 170.86; and (4) by replacing the definition of "Director" in 170.86 and 170.612 with the above definition of "Director".

**PAR. 3.** Part 296 is revised by (1) replacing the definition of "Assistant Regional Commissioner" with the above definition of "Regional regula-

tory administrator" in 296.2 and 296.72; (2) deleting the definition of "Commissioner" in 296.72; (3) deleting the definition of "Regional Commissioner" in 296.2; and (4) replacing the definition of "Director" with the above definition of "Director" in § 296.2.

**PAR. 4.** The titles "assistant regional commissioner", "Assistant Regional Commissioner", "assistant regional commissioner, alcohol and tobacco tax" and "regional director", wherever they occur in Title 27 except Parts 70, 71, 72 and Subparts C and D of Part 173 are replaced by the title "regional regulatory administrator".

**PAR. 5.** The titles "inspector", "assigned officer", "Alcohol, Tobacco and Firearms officer", and "internal revenue officer", wherever they occur in Title 27 (except Part 70), are replaced by the title "ATF officer".

**PAR. 6.** The title "regional director", wherever it occurs in 27 CFR Part 72, is replaced by the title "regional administrative officer".

**PAR. 7.** The titles "Director, Alcohol, Tobacco and Firearms Division", and "Director, Bureau of Alcohol, Tobacco and Firearms", wherever they occur in Title 27, are replaced by the title "Director".

**PAR. 8.** The titles "commissioner" and "regional commissioner" are replaced by the title "Director" wherever they occur in Parts 1, 178, 181, and in §§ 200.95, 200.98, 200.99, and 200.100.

**PAR. 9.** The title "Commissioner", is deleted in §§ 200.29, 200.85.

**PAR. 10.** Section 200.32 is deleted in its entirety.

**PAR. 11.** Section 200.116 is amended by replacing the title "Commissioner" with the title "Under Secretary", and by replacing the title "Assistant Commissioner" with the title "Assistant Secretary".

**PAR. 12.** The title "Assistant Regional Director" is deleted from § 70.23(b)(2).

**PAR. 13.** The wording "Any Assistant Commissioner of Internal Revenue, when designated to do so by the Commissioner, and" is deleted from § 1.35. The succeeding word "the" is capitalized as the beginning of a sentence.

**PAR. 14.** The titles "director of customs", and "collector of customs", wherever they occur in Title 27, are replaced by the title "district director of customs".

**PAR. 15.** Sections 70.21, 70.22(c)(1), and 70.23(b)(2) are amended by substituting the title "regional regulatory administrator" for the title "regional director".

**PAR. 16.** Sections 70.28, 70.36(a), 70.36(c), and 70.36(d) are amended by substituting the title "special agent in charge" for the title "regional director".

**PAR. 17.** The titles "examiner" and "hearing examiner", wherever they



occur in Part 200 and Subparts E of Parts 178 and 181 are replaced by the title "administrative law judge".

PAR. 18. Section 252.11 is amended by deleting the second definition of "Proprietor" which is an obsolete version.

PAR. 19. Section 4.39(b)(3) is amended by replacing the erroneous reference to § 4.1(h) with the new correct reference, § 4.10.

PAR. 20. Section 196.80 is amended by changing the section reference § 196.10 to § 196.5 to conform to the provisions of this document.

PAR. 21. Section 240.354 is amended by changing the section reference § 240.40b to § 240.10 to conform to the provisions of this document.

PAR. 22. Section 240.444 is amended by changing the section references §§ 240.40a and 240.40b to read § 240.10 "Liquid sugar" and "Invert sugar syrup" to conform to the provisions of this document.

PAR. 23. Section 290.14 (new § 290.11 "Cigar") is amended by replacing the section reference "paragraph (b) of § 290.15" with "the definition of 'Cigarette' in this section", to conform to the provisions of this document.

PAR. 24. The word "sulphur", wherever it occurs in any part of Title 27, is replaced by the word "sulfur" (the preferred modern spelling).

Because this Treasury decision merely makes editorial changes and conforms definitions concerning agency organization, procedure, and practice, it is found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b) or subject to the effective date limitations of 5 U.S.C. 553(d).

Accordingly, this Treasury decision becomes effective March 31, 1978.

This Treasury decision is issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917), 27 U.S.C. 205 (49 Stat. 981 as amended), 18 U.S.C. 926 (82 Stat. 1226), 18 U.S.C. 827 (84 Stat. 959), and § 38, Arms Export Control Act (22 U.S.C. 2778, 90 Stat. 744).

Signed: February 17, 1978.

REX D. DAVIS,  
Director.

Approved: March 6, 1978.

BETTE B. ANDERSON,  
Under Secretary of the Treasury.

## PART 1—BASIC PERMIT REQUIREMENTS UNDER THE FEDERAL ALCOHOL ADMINISTRATION ACT

### Subpart B—Definitions

#### § 1.5 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meaning ascribed in this subpart.

Act. "Act" shall mean the Federal Alcohol Administration Act.

Applicant. "Applicant" shall mean any person who has filed with the regional regulatory administrator an application for a basic permit under the Federal Alcohol Administration Act.

Basic permit. "Basic permit" shall mean a formal document issued under the Act in the form prescribed by the Director authorizing the person named therein to engage in the activities specified at the location stated.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Other term. Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by such act.

Permittee. "Permittee" shall mean any person holding a basic permit issued under the Federal Alcohol Administration Act.

Person. "Person" shall mean any individual, partnership, joint-stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

Resale at wholesale. "Resale at wholesale" shall mean a sale to any trade buyer.

Trade buyer. "Trade buyer" shall mean any person who is a wholesaler or retailer of distilled spirits, wine or malt beverages.

## PART 2—NONINDUSTRIAL USE OF DISTILLED SPIRITS AND WINE

### Subpart B—Definitions

#### § 2.5 Distilled spirits.

Section 17(a) of the Federal Alcohol Administration Act defines "distilled spirits" as ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof for nonindustrial use.

Wine. Section 17(a) of the Federal Alcohol Administration Act defines "wine" as (a) wine as defined in section 610 and section 617 of the Revenue Act of 1918 (26 U.S.C. 3036, 3044, 3045), as now in force or hereafter amended, and (b) other alcoholic beverages not so defined, but made in the manner of wine, including sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than the juice of sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake; in each instance only if containing not less than 7 per centum and not more

than 24 per centum of alcohol by volume, and if for nonindustrial use.

## PART 3—BULK SALES AND BOTTLING OF DISTILLED SPIRITS

### Subpart B—Definitions

#### § 3.5 Brandy.

As used in this part, the term "brandy" means brandy or wine spirits for addition to wines as permitted by Internal Revenue law and the term "alcohol" means ethyl alcohol distilled at or above 190° proof.

Distilled spirits. Section 17(a) of the Federal Alcohol Administration Act defines "distilled spirits" as ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use.

In bulk. As used in this part, the term "in bulk" shall mean in containers having a capacity in excess of 1 wine gallon.

Other terms. Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the meaning assigned to it by such act.

## PART 4—LABELING AND ADVERTISING OF WINE

### Subpart B—Definitions

#### § 4.10 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meaning ascribed in this part.

Act. "Act" means the Federal Alcohol Administration Act.

Added brandy or alcohol. As used in the phrase "added brandy or alcohol" the term "brandy" means brandy or wine spirits for use in the fortification of wine as permitted by internal revenue law. The term "alcohol" means ethyl alcohol distilled at or above 190° proof.

Brand label. "Brand label" means the label carrying, in the usual distinctive design, the brand name of the wine.

Container. "Container" means any bottle, barrel, cask or other closed receptacle irrespective of size or of the material from which made for use for the sale of wine at retail. The term "bottler" means any person who places wine in containers of a capacity of 1 gallon or less; and the term "packer" means any person who places wine in containers of a capacity in excess of 1 gallon.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Gallon. Means a United States gallon of 231 cubic inches of alcoholic beverages at 60° F.

Interstate commerce. "Interstate or foreign commerce" means commerce



between any State and any place outside thereof, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside thereof.

**Liter or litre.** Means a metric unit of capacity equal to 1000 cubic centimeters at 4° C., and equivalent to 33.814 U.S. fluid ounces. For purposes of this part, a liter is subdivided into 1000 equal milliliters (ml).

**Permittee.** "Permittee" means any person holding a basic permit under the Federal Alcohol Administration Act.

**Person.** "Person" means any individual, partnership, joint-stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent, and including an officer or employee of any agency of a State or political subdivision thereof; and the term "trade buyer" means any person who is a wholesaler or retailer.

**Pure condensed must.** "Pure condensed must" means the dehydrated juice or must of sound, ripe grapes, or other fruit or agricultural products, concentrated to not more than 80° (Balling), the composition thereof remaining unaltered except for removal of water; the term "restored pure condensed must" means pure condensed must to which has been added an amount of water not exceeding the amount removed in the dehydration process; and the term "sugar" means pure cane, beet, or dextrose sugar in dry form containing, respectively, not less than 95 percent of actual sugar calculated on a dry basis.

**Regional regulatory administrator.** The principal ATF regional official responsible for administering regulations in this part.

**United States.** "United States" means the several States and Territories and the District of Columbia; the term "State" includes a Territory and the District of Columbia; and the term "Territory" means Puerto Rico.

**Use of other terms.** Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by such act.

**Vintage wine.** "Vintage wine" means a wine made in accordance with the standards prescribed in Classes 1, 2, and 3 of § 4.21, deriving not less than 95 percent of its volume from grapes gathered in the same calendar year, grown in the same viticultural area, and fermented in the State in which this viticultural area is located.

**Wine.** "Wine" means: (1) Wine as defined in section 610 and section 617 of the Revenue Act of 1918 (26 U.S.C. 3036, 3044, 3045) and (2) other alcoholic beverages not so defined, but made in the manner of wine, including sparkling and carbonated wine, wine made from condensed grape must,

wine made from other agricultural products than the juice of sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry, and sake; in each instance only if containing not less than 7 percent, and not more than 24 percent of alcohol by volume, and if for nonindustrial use.

## PART 5—LABELING AND ADVERTISING OF DISTILLED SPIRITS

### Subpart B—Definitions

#### § 5.11 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. Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by such Act.

**Act.** The Federal Alcohol Administration Act.

**Age.** The period during which, after distillation and before bottling, distilled spirits have been stored in oak containers. "Age" for bourbon whisky, rye whisky, wheat whisky, malt whisky, or rye malt whisky, and straight whiskies other than straight corn whisky, means the period the whisky has been stored in charred new oak containers.

**Bottle.** Any container, irrespective of the material from which made, used for the sale of distilled spirits at retail.

**Brand label.** The principal display panel that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale, and any other label appearing on the same side of the bottle as the principal display panel. The principal display panel appearing on a cylindrical surface is that 40 percent of the circumference which is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

**Distilled spirits.** Ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whisky, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use, except that this term shall not include mixtures containing wine, bottled at 48° proof or less, if the mixture contains more than 50 percent wine on a proof gallon basis.

**Gallon.** U.S. gallon of 231 cubic inches of alcoholic beverage at 60° F.

**In bulk.** In containers having a capacity in excess of 1 wine gallon (3.785 liters).

**Interstate or foreign commerce.** Commerce between any State and any place outside thereof, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside thereof.

**Liter or litre.** A metric unit of capacity equal to 1,000 cubic centimeters of distilled spirits at 15.56° C (60° F.), and equivalent to 33.814 U.S. fluid ounces. A liter is subdivided into 1,000 milliliters. Milliliter or milliliters may be abbreviated as "ml".

**Permittee.** Any person holding a basic permit under the Federal Alcohol Administration Act.

**Person.** Any individual, partnership, joint stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent and including an officer or employee of any agency of a State or political subdivision thereof; and the term "trade buyer" means any person who is a wholesaler or retailer.

**Produced at.** As used in §§ 5.22 and 5.52 in conjunction with specific degrees of proof to describe the standards of identity, means the composite proof of the spirits after completion of distillation and before reduction in proof.

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

**Assistant regional commissioner.** Whenever used in this part shall mean a regional director as defined in this section.

**United States.** The several States and Territories and the District of Columbia; the term "State" includes a Territory and the District of Columbia; and the term "Territory" means the Commonwealth of Puerto Rico.

## PART 6—INDUCEMENTS FURNISHED TO RETAILERS

### Subpart B—Definitions

#### § 6.10 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meanings ascribed in this subpart.

**Industry member.** "Industry member" shall mean any person engaged in business as a distiller, brewer, rectifier, blender, or other producer, or as an importer or wholesaler, of distilled spirits, wine or malt beverages, or as a bottler, or warehouseman and bottler, of distilled spirits, but shall not include an agency of a State or political subdivision thereof, or an officer or employee of such agency.

**Other terms.** Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the meaning assigned to it by such act.



**Product.** "Product" shall mean distilled spirits, wine or malt beverages, as defined in the Federal Alcohol Administration Act.

**Retailer.** "Retailer" shall mean any person engaged in the sale of distilled spirits, wine or malt beverages to consumers.

**Retail establishment.** "Retail establishment" shall mean any premises where distilled spirits, wine or malt beverages are sold or offered for sale to consumers, whether for consumption on or off the premises where sold.

## PART 7—LABELING AND ADVERTISING OF MALT BEVERAGES

### Subpart B—Definitions

#### § 7.10 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meaning ascribed in this subpart.

**Act.** "Act" means the Federal Alcohol Administration Act.

**Any other term used.** Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by such act.

**Brand label.** "Brand label" means the label carrying, in the usual distinctive design, the brand name of the malt beverage.

**Container.** "Container" means any can, bottle, barrel, keg, or other closed receptacle, irrespective of size or of the material from which made, for use for the sale of malt beverages at retail. The term "bottler" means any person who places malt beverages in containers of a capacity of 1 gallon or less; and the term "packer" means any person who places malt beverages in containers of a capacity in excess of 1 gallon.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

**Gallon.** "Gallon" means United States gallon of 231 cubic inches of malt beverages at 39.2° F. (4° C.). All other liquid measures used are subdivisions of the gallon as so defined.

**Interstate commerce.** "Interstate or foreign commerce" means commerce between any State and any place outside thereof, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside thereof.

**Malt beverage.** "Malt beverage" means a beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates or products prepared therefrom, and

with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human food consumption.

**Person.** "Person" means any individual, partnership, joint-stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent, and including an officer or employee of any agency of a State or political subdivision thereof.

**Regional regulatory administrator.** The principal ATF regional official responsible for administering regulations in this part.

**United States.** "United States" means the several States and Territories and the District of Columbia; the term "State" includes a Territory and the District of Columbia; and the term "Territory" means Puerto Rico.

## PART 8—CREDIT PERIOD TO BE EXTENDED TO RETAILERS OF ALCOHOLIC BEVERAGES

### Subpart B—Definitions

#### § 8.10 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meaning ascribed in this part.

**Act.** "Act" means the Federal Alcohol Administration Act.

**Distilled spirits.** "Distilled spirits" means ethyl alcohol, hydrated oxide of ethyl spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for non-industrial use.

**Malt beverage.** "Malt beverage" means a beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human food consumption.

**Wine.** "Wine" means (1) wine as defined in the section 610 and section 617 of the Revenue Act of 1918 (U.S.C., title 26, secs. 441 and 444), as now in force or hereafter amended, and (2) other alcoholic beverages not so defined, but made in the manner of wine, including sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than the juice of sound, ripe grapes, imitation wine compounds sold as wine, vermouth, cider, perry and sake; in each instance only if containing not less than 7 per centum and not more than 24 per centum of alcohol by volume, and if for non-industrial use.

## PART 18—PRODUCTION OF VOLATILE FRUIT-FLAVOR CONCENTRATES

### Subpart B—Definitions

#### § 18.11 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.

**ATF Officer.** An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

**Bonded wine cellar.** Premises established under the provisions of 26 CFR Part 240 for the production, blending, cellar treatment, storage, bottling, or packaging of untaxed wine, and includes premises designated as "bonded winery."

**Bureau.** Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C. 20226.

**Concentrate.** Any volatile fruit-flavor concentrate (essence) produced by any process which includes evaporation from any fruit mash or juice.

**Concentrate plant.** An establishment qualified under this part for the production of concentrates.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

**Executed under penalties of perjury.** Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the application, report, 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 application or report), 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."

**Flashed mash or juice.** The spent fruit mash or juice from which the volatile fruit flavors have been removed.

**Fold.** The ratio of the volume of the fruit mash or juice to the volume of the concentrate produced from such fruit mash or juice. For example, one gallon of concentrate of 100-fold would be the product from 100 gallons of fruit mash or juice.

**Fruit.** All products commonly known and classified as fruit, berries, or grapes.



**High-proof concentrate.** For the purposes of this part, "high-proof concentrate" shall mean a concentrate (essence), as defined in this section, having an alcohol content of more than 24 percent by volume but which is deemed unfit for beverage use because of its natural constituents.

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

**Processing material.** The fruit mash or juice from which concentrate is to be made.

**Proprietor.** The person qualified under this part to operate the volatile fruit-flavor concentrate plant.

**Regional regulatory administrator.** The principal ATF regional official responsible for administering regulations in this part.

**Registry number.** The number assigned to a volatile fruit-flavor concentrate plant by the regional director.

**U.S.C.** The United States Code.

## PART 47—IMPORTATION OF ARMS, AMMUNITION, AND IMPLEMENTS OF WAR

### Subpart B—Definitions

#### § 47.11 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 meanings ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words imparting the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude other things not enumerated which are in the same general class or are otherwise within the scope thereof.

**ATF Officer.** Any officer of the Bureau of Alcohol, Tobacco and Firearms or any agent or other person authorized by law or by the Secretary of the Treasury, or appointed by a Regional Director of the Bureau, or by another principal ATF Officer under delegated authority to perform the duties of an officer of the Bureau of Alcohol, Tobacco and Firearms.

**Article.** The term "article" shall mean any of the arms, ammunition, and implements of war enumerated in the U.S. Munitions Import List.

**Bureau.** Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury.

**Carbine.** A "carbine" is a short barreled rifle whose barrel is generally not longer than 22 inches and is characterized by light weight.

**CFR.** The Code of Federal Regulations.

**Chemical agent.** A "chemical agent" is a substance useful in war which, by its ordinary and direct chemical action, produces a powerful physiological effect.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

**Firearms.** As used in this part, the term "firearm" denotes a weapon not over .50 caliber which will or is designed to or may be readily converted to expel a projectile by the action of an explosive, but shall not include BB and pellet guns or firearms covered by Category I (a) and (e) established to have been manufactured before 1898.

**Import or Importation.** The term "import" or "importation" means bringing into the United States from a foreign country any of the articles on the Import List, but shall not include intransit, temporary import or temporary export transactions subject to Department of State controls under Title 22, Code of Federal Regulations.

**Import List.** The list of articles contained in § 47.21 and identified therein as "The U.S. Munitions Import List".

**Machinegun.** A "machinegun", "machine pistol", "submachinegun", or "automatic rifle" is a firearm originally designed to fire, or capable of being fired fully automatically by a single pull of the trigger.

**Permit.** The term "permit" means the same as "license" for purposes of 22 U.S.C. 1934(c).

**Person.** The "person" includes a partnership, company, association or corporation, as well as a natural person.

**Pistol.** A "pistol" is a hand-operated firearm having a chamber integral with, or permanently aligned with, the bore.

**Regional regulatory administrator.** The principal ATF regional official responsible for administering regulations in this part.

**Revolver.** A "revolver" is a hand-operated firearm with a revolving cylinder containing chambers for individual cartridges.

**Rifle.** A "rifle" is a shoulder firearm discharging bullets through a rifled barrel at least 16 inches in length, including combination and drilling guns.

**Sporting type sight including optical.** A telescopic sight suitable for daylight use on a rifle, shotgun, pistol, or revolver for hunting or target shooting.

**This chapter.** Chapter I, Title 27, Code of Federal Regulations.

**United States.** For the purposes of this part, the term "United States", when used in the geographical sense, unless otherwise expressly defined, includes the several States, the insular possessions of the United States, the Canal Zone, the District of Columbia, and any territory over which the United States exercises all and any powers of administration, legislation, and jurisdiction.

**U.S.C.** The United States Code.

## PART 70—PROCEDURE AND ADMINISTRATION

### Subpart B—Definitions

#### § 70.11 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 imparting 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.

**Bureau.** The Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, Washington, D.C. 20226.

**CFR.** The Code of Federal Regulations.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

**Regional regulatory administrator.** The principal ATF regional official responsible for administering regulations in this part.

**Special agent in charge.** The principal official responsible for the ATF criminal enforcement program within an ATF district.

**U.S.C.** The United States Code.

## PART 72—DISPOSITION OF SEIZED PERSONAL PROPERTY

### Subpart B—Definitions

#### § 72.11 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meanings ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words imparting 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.

**ATF Officer.** An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

**Appraised value.** The value placed upon seized property or carriers by the appraiser or appraisers designated for the purpose of determining whether the property or carriers may be forfeited administratively.

**Carrier.** A vessel, vehicle, or aircraft seized under title 49 U.S.C., chapter 11 for having been used to transport, carry, or conceal a contraband firearm. Vessels, vehicles, or aircraft seized under other provisions of applicable laws shall be considered personal property.

**Commercial crimes.** Any of the following types of crimes (Federal or State): Offenses against the revenue laws; burglary; counterfeiting; forgery; kidnapping; larceny; robbery; illegal sale or possession of deadly weapons; prostitution (including soliciting, procuring, pandering, white slaving, keeping house of ill fame, and like offenses); extortion; swindling and confidence games; and attempting to



commit, conspiring to commit, or compounding any of the foregoing crimes. Addiction to narcotic drugs and use of marihuana will be treated as if such were commercial crime.

**Contraband firearm.** A firearm with respect to which there has been committed a violation of the National Firearms Act (26 U.S.C., chapter 53) or any regulation issued thereunder.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

**Equity.** As used in administrative action on petitions for remission or mitigation of forfeitures, shall mean that interest which a petitioner has in the personal property or carrier petitioned for at the time of final administrative action on the petition, but such interest shall not be considered to include any unearned finance charges from the date of seizure or the date of default, if later; any amount rebatable on account of paid insurance premiums; attorney's fees for collection; any amount identified as dealer's reserve; or any amount in the nature of liquidated damages that may have been agreed upon by the buyer and the petitioner.

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

**Re-appraisal.** An up-to-date statutory appraisal to determine the present value of the property or carrier involved in a petition for remission or mitigation of forfeiture made in the same manner as the original appraisal, and performed at the written request of the petitioner whose petition in regard to the property or carrier has been allowed and who, for reasonable cause, is not satisfied that the original appraisal represents the present value of the property or carrier.

**Region.** A Bureau of Alcohol, Tobacco and Firearms Region.

**Regional administrative officer.** The regional official in charge of the administrative support program for all ATF functions within the region.

**Regional regulatory administrator.** The principal ATF regional official responsible for administering regulations in this part.

**U.S.C.** The United States Code.

## PART 173—RETURNS OF SUBSTANCES, ARTICLES, OR CONTAINERS

### Subpart B—Definitions

#### § 173.5 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.

**Articles.** Denatured spirits or any product or preparation which contains more than 25 percent by volume of denatured spirits.

**Bottler.** A proprietor of a distilled spirits plant authorized to bottle spirits, a proprietor of a class 8 bonded warehouse qualified under customs laws, or an agency of the United States or any State or political subdivision thereof.

**CFR.** The Code of Federal Regulations.

**Container.** Any receptacle, vessel, barrel, cask, keg, bottle, jug, can, or jar of the character used for the packaging of distilled spirits.

**Demand letter.** The "demand letter" is the formal requirement of the assistant regional commissioner that a person disposing of any article, container, or substance shall render a correct return.

**Denatured spirits.** Spirits to which denaturants have been added pursuant to formulas prescribed in Part 212 of this chapter.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

**Dispose.** "Dispose" and all forms of the word shall mean and include, but not by way of limitation, consign, sell, transfer, deliver, destroy, or lose, and all forms of those words.

**Distilled spirits or spirits.** That substance known as ethyl alcohol, ethanol, or spirits of wine, including all dilutions and mixtures thereof, from whatever source or by whatever process produced, and shall include whisky, brandy, rum, gin, and vodka and products produced in such manner that the person producing them is a rectifier within the meaning of section 5082 of the Internal Revenue Code of 1954, as amended.

**Importer.** A person authorized to import distilled spirits into the United States.

**Liquor bottle.** A bottle made of glass or earthenware, or of other suitable material approved by the Director, designed or intended for use as a container for distilled spirits for sale for beverage purposes.

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

**Region.** A Bureau of Alcohol, Tobacco and Firearms Region.

**Regional regulatory administrator.** The principal ATF regional official responsible for administering regulations in this part.

**Render.** "Render" shall mean to deliver the completed return to the

office indicated in the demand letter, not later than the date required by the demand letter, or to mail such completed return, in an envelope properly addressed and stamped, in sufficient time for such envelope to be postmarked by the Post Office Department not later than the date required by the demand letter. The time and date of the United States postmark shall constitute the time and date of delivery of the return to the designated office.

**Substance.** The term "substance" shall mean and include, but not by way of limitation, any of the following: Any grade or type of sugar, sirup, or molasses derived from sugar cane, sugar beets, corn, sorghum, or any other source; starch; potatoes; grain, or corn meal, corn chops, cracked corn, rye chops, middlings, shorts, bran, or any other grain derivative; malt; malt sugar, or malt sirup; oak chips, charred or not charred; yeast; cider; honey; fruits; grapes; berries; fruit, grape, or berry juices or concentrates; wine; caramel; burnt sugar; gin flavor; Chinese bean cake or Chinese wine cake; urea; ammonium phosphate, ammonium carbonate, ammonium sulphate, or any other yeast food; ethyl acetate or any other ethyl ester; any other material of the character used in the manufacture of distilled spirits, or any chemical or other material suitable for promoting or accelerating fermentation; any chemical or material of the character used for the production of distilled spirits by chemical reaction; or any combination of such materials or chemicals.

**This chapter.** Chapter I, Title 26, Code of Federal Regulations.

**United States.** The several States and the District of Columbia.

**U.S.C.** "U.S.C." shall mean the United States Code.

## PART 178—COMMERCE IN FIREARMS AND AMMUNITION

### Subpart B—Definitions

#### § 178.11 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 meanings 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 other things not enumerated which are in the same general class or are otherwise within the scope thereof.

**Act.** Chapter 44 of title 18 of the United States Code.

**Ammunition.** Ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm other than an antique firearm. The term shall not include (a) any



shotgun shot or pellet not designed for use as the single, complete projectile load for one shotgun hull or casing, nor (b) any unloaded, non-metallic shotgun hull or casing not having a primer.

**Antique firearm.** (a) Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; and (b) any replica of any firearm described in paragraph (a) of this definition if such replica (1) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or (2) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

**Business premises.** The property on which firearms or ammunition importing, manufacturing or dealing business is or will be conducted. A private dwelling, no part of which is open to the public, shall not be recognized as coming within the meaning of the term.

**Collection premises.** The premises described on the license of a collector as the location at which he maintains his collection of curios and relics.

**Collector.** Any person who acquires, holds, or disposes of firearms or ammunition as curios or relics.

**Commerce.** Travel, trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia and any State, or between any foreign country or any territory or possession and any State or the District of Columbia, or between points in the same State but through any other State or the District of Columbia or a foreign country.

**Crime punishable by imprisonment for a term exceeding 1 year.** Any offense for which the maximum penalty, whether or not imposed, is capital punishment or imprisonment in excess of 1 year. The term shall not include (a) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulations of business practices excluded from the meaning of the term under provisions contained in this part, or (b) any State offense (other than one involving a firearm or explosive) classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of 2 years or less.

**Curios or relics.** Firearms or ammunition which are of special interest to collectors by reason of some quality other than is ordinarily associated with firearms intended for sporting use or as offensive or defensive weapons. To be recognized as curios or relics, firearms and ammunition must

fall within one of the following categories:

(a) Firearms and ammunition which were manufactured at least 50 years prior to the current date, but not including replicas thereof;

(b) Firearms and ammunition which are certified by the curator of a municipal, State, or Federal museum which exhibits firearms to be curios or relics of museum interest; and

(c) Any other firearms or ammunition which derive a substantial part of their monetary value from the fact that they are novel, rare, bizarre, or because of their association with some historical figure, period, or event. Proof of qualification of a particular firearm or item of ammunition under this category may be established by evidence of present value and evidence that like firearms or ammunition are not available except as collector's items, or that the value of like firearms or ammunition available in ordinary commercial channels is substantially less.

**Customs officer.** Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.

**Dealer.** Any person engaged in the business of selling firearms or ammunition at wholesale or retail; any person engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms; or any person who is a pawnbroker.

**Destructive device.** (a) Any explosive, incendiary, or poison gas (1) bomb, (2) grenade, (3) rocket having a propellant charge of more than 4 ounces, (4) missile having an explosive or incendiary charge of more than one-quarter ounce, (5) mine, or (6) device similar to any of the devices described in the preceding paragraphs of this definition; (b) any type of weapon (other than a shotgun or a shotgun shell which the Director finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore or more than one-half inch in diameter; and (c) any combination of parts either designed or intended for use in converting any device into any destructive device described in paragraph (a) or (b) of this section and from which a destructive device may be readily assembled. The term shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use

as a signalling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10, United States Code; or any other device which the Director finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting, recreational, or cultural purposes.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

**Discharged under dishonorable conditions.** Separation from the U.S. Armed Forces resulting from a Dishonorable Discharge.

**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 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, application, request, certificate), 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."

**Federal Firearms Act.** Chapter 18 of title 15, United States Code, as in effect on December 15, 1968.

**Felony.** Any offense punishable by imprisonment for a term exceeding 1 year. The term shall not include any offense (other than one involving a firearm or explosive) classified as a misdemeanor under the laws of a State and punishable by a term of imprisonment of 2 years or less.

**Firearm.** Any weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; or any destructive device; but the term shall not include an antique firearm. In the case of a licensed collector, the term shall mean only curios and relics.

**Firearm frame or receiver.** That part of a firearm which provides housing for the hammer, bolt or breechblock, and firing mechanism, and which is usually threaded at its forward portion to receive the barrel.

**Fugitive from justice.** Any person who has fled from any State to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding.

**Importation.** The bringing of a firearm or ammunition into the United States; except that the bringing of a firearm or ammunition from outside



the United States into a foreign-trade zone for storage pending shipment to a foreign country or subsequent importation into this country, pursuant to this part, shall not be deemed importation.

**Importer.** Any person engaged in the business of importing or bringing firearms or ammunition into the United States for purposes of sale or distribution.

**Indictment.** Includes an indictment or information in any court under which a crime punishable by imprisonment for a term exceeding 1 year may be prosecuted.

**Internal Revenue Code of 1954.** Title 26, United States Code.

**Internal revenue district.** An internal revenue district under the jurisdiction of a District Director of Internal Revenue.

**Interstate or foreign commerce.** Includes commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia. The term shall not include commerce between places within the same State but through any place outside of that State.

**Licensed collector.** A collector of curios and relics only and licensed under the provisions of this part.

**Licensed dealer.** A dealer licensed under the provisions of this part, and a dealer licensed under the Federal Firearms Act if such license is deemed valid under section 907 of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 235).

**Licensed importer.** An importer licensed under the provisions of this part, and a manufacturer (as that term was defined in the Federal Firearms Act) licensed under the Federal Firearms Act if such license is deemed valid under section 907 of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 235).

**Licensed manufacturer.** A manufacturer licensed under the provisions of this part, and a manufacturer (as that term was defined in the Federal Firearms Act) licensed under the Federal Firearms Act if such license is deemed valid under section 907 of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 235).

**Machine gun.** Any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any combination or parts designed and intended for use in converting a weapon into a machine gun, and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.

**Manufacturer.** Any person engaged in the manufacture of firearms or ammunition for purposes of sale or distribution.

**National Firearms Act.** Chapter 53 of the Internal Revenue Code of 1954.

**Pawnbroker.** Any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any firearm or ammunition as security for the payment or repayment of money.

**Person.** Any individual, corporation, company, association, firm, partnership, society, or joint stock company.

**Pistol.** A weapon originally designed, made, and intended to fire a small projectile (bullet) from one or more barrels when held in one hand, and having (a) a chamber(s) as an integral part(s) of, or permanently aligned with, the bore(s); and (b) a short stock designed to be gripped by one hand and at an angle to and extending below the line of the bore(s).

**Published ordinance.** A published law of any political subdivisions of a State which the Director determines to be relevant to the enforcement of this part and which is contained on a list compiled by the Director, which list is published in the FEDERAL REGISTER, revised annually, and furnished to each licensee under this part.

**Region.** A Bureau of Alcohol, Tobacco, and Firearms Region.

**Regional regulatory administrator.** The principal ATF regional official responsible for administering regulations in this part.

**Revolver.** A small projectile weapon, of the pistol type, having a breech-loading chambered cylinder so arranged that the cocking of the hammer or movement of the trigger rotates it and brings the next cartridge in line with the barrel for firing.

**Rifle.** A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

**Short-barreled rifle.** A rifle having one or more barrels less than 16 inches in length, and any weapon made from a rifle, whether by alteration, modification, or otherwise, if such weapon, as modified, has an overall length of less than 26 inches.

**Short-barreled shotgun.** A shotgun having one or more barrels less than 18 inches in length, and any weapon made from a shotgun, whether by alteration, modification, or otherwise, if such weapon as modified has an overall length of less than 26 inches.

**Shotgun.** A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and designed or redesigned and made or

remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

**State.** A State of the United States. The term shall include the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).

**State of residence.** The State in which an individual regularly resides, or maintains his home, or if such person is on active duty as a member of the United States Armed Forces, the State in which his permanent duty station is located: *Provided*, That an alien who is legally in the United States shall be considered to be a resident of the State in which (a) he is residing and has so resided for a period of at least 90 days prior to the date of sale or delivery of a firearm or ammunition, or (b) his embassy or consulate is located if the principal officer of such embassy or consulate issues a written statement to such alien authorizing his acquisition of a firearm or ammunition. Temporary sojourn in a State does not make the State of temporary sojourn the State of residence.

**Example 1.** A maintains his home in State X. He travels to State Y on a hunting, fishing, business or other type of trip. He does not become a resident of State Y by reason of such trip.

**Example 2.** A maintains a home in State X and a home in State Y. He resides in State X except for the summer months of the year and in State Y for the summer months of the year. During the time that he actually resides in State X he is a resident of State X, and during the time that he actually resides in State Y he is a resident of State Y.

**Unserviceable firearm.** A firearm which is incapable of discharging a shot by means of an explosive and is incapable of being readily restored to a firing condition.

U.S.C. The United States Code.

## PART 179—MACHINE GUNS, DESTRUCTIVE DEVICES, AND CERTAIN OTHER FIREARMS

### Subpart B—Definitions

#### § 179.11 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 meanings 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 other things not enumerated which are in the same general class or are otherwise within the scope thereof.



**Antique firearm.** Any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

**Any other weapon.** Any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire. Such term shall not include a pistol or a revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition.

**Customs officer.** Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.

**Dealer.** Any person, not a manufacturer or importer, engaged in the business of selling, renting, leasing, or loaning firearms and shall include pawnbrokers who accept firearms as collateral for loans.

**Destructive device.** (a) Any explosive, incendiary, or poison gas (1) bomb, (2) grenade, (3) rocket having a propellant charge of more than 4 ounces, (4) missile having an explosive or incendiary charge of more than one-quarter ounce, (5) mine, or (6) similar device; (b) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than one-half inch in diameter, except a shotgun or shotgun shell which the Director finds is generally recognized as particularly suitable for sporting purposes; and (c) any combination of parts either designed or intended for use in converting any device into a destructive device as described in paragraphs (a) and (b) of this definition and from which a destructive device may be readily assembled.

The term shall not include any device which is neither designed or redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10 of the United States Code; or any device which the Director finds is not likely to be used as a weapon, or is an antique or is a rifle which the owner intends to use solely for sporting purposes.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

**Director of the Service Center.** A director of an Internal Revenue Service Center in an internal revenue region.

**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, 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, application, request, certificate), 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.** The severance of goods from the mass of things belonging to this country with the intention of uniting them to the mass of things belonging to some foreign country.

**Exporter.** Any person who exports firearms from the United States.

**Firearm.** (a) A shotgun having a barrel or barrels of less than 18 inches in length; (b) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (c) a rifle having a barrel or barrels of less than 16 inches in length; (d) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (e) any other weapon, as defined in this subpart; (f) a machine gun; (g) a muffler or a silencer for any firearm whether or not such firearm is included within this definition; and (h) a destructive device. The term shall not include an antique firearm or any device (other than a machine gun or destructive device) which, although designed as a weapon, the Director finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not

likely to be used as a weapon. For purpose of this definition, the length of the barrel on a shotgun or rifle shall be determined by measuring the distance between the muzzle and the face of the bolt, breech, or breechlock when closed and when the shotgun or rifle is cocked. The overall length of a weapon made from a shotgun or rifle is the distance between the extreme ends of the weapon measured along a line parallel to the center line of the bore.

**Fixed ammunition.** That self-contained unit consisting of the case, primer, propellant charge, and projectile or projectiles.

**Frame or receiver.** That part of a firearm which provides housing for the hammer, bolt or breechblock and firing mechanism, and which is usually threaded at its forward portion to receive the barrel.

**Importation.** The bringing of a firearm within the limits of the United States or any territory under its control or jurisdiction, from a place outside thereof (whether such place be a foreign country or territory subject to the jurisdiction of the United States), with intent to unlade. Except that, bringing a firearm from a foreign country or a territory subject to the jurisdiction of the United States into a foreign trade zone for storage pending shipment to a foreign country or subsequent importation into this country, pursuant to the I.R.C. and this part, shall not be deemed importation.

**Importer.** Any person who is engaged in the business of importing or bringing firearms into the United States.

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

**Machine gun.** Any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any combination of parts designed and intended for use in converting a weapon into a machine gun, and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.

**Make.** This term and the various derivatives thereof shall include manufacturing (other than by one qualified to engage in such business under this part), putting together, altering, any combination of these, or otherwise producing a firearm.

**Manual reloading.** The inserting of a cartridge or shell into the chamber of a firearm either with the hands or by means of a mechanical device controlled and energized by the hands.

**Manufacturer.** Any person who is engaged in the business of manufacturing firearms.



**Muffler or silencer.** Any device for silencing or diminishing the report of any portable weapon, such as a rifle, carbine, pistol, revolver, machine gun, submachine gun, shotgun, fowling piece, or other device from which a shot, bullet, or projectile may be discharged by an explosive, and is not limited to mufflers or silencers for "firearms" as defined.

**Person.** A partnership, company, association, trust, estate, or corporation, as well as a natural person.

**Pistol.** A weapon originally designed, made, and intended to fire a small projectile (bullet) from one or more barrels when held in one hand, and having (a) a chamber(s) as an integral part(s) of, or permanently aligned with, the bore(s); and (b) a short stock designed to be gripped by one hand and at an angle to and extending below the line of the bore(s). The term shall not include any gadget device, any gun altered or converted to resemble a pistol, any gun that fires more than one shot, without manual reloading, by a single function of the trigger, or any small portable gun such as: Nazi belt buckle pistol, glove pistol, or a one-hand stock gun designed to fire fixed shotgun ammunition.

**Regional regulatory administrator.** The principal ATF regional official responsible for administering regulations in this part.

**Revolver.** A small projectile weapon, of the pistol type, having a breech-loading chambered cylinder so arranged that the cocking of the hammer or movement of the trigger rotates it and brings the next cartridge in line with the barrel for firing.

**Rifle.** A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed cartridge.

**Shotgun.** A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed shotgun shell.

**Transfer.** This term and the various derivatives thereof shall include selling, assigning, pledging, leasing, loaning, giving away, or otherwise disposing of.

**United States.** The States and the District of Columbia.

**U.S.C.** The United States Code.

**Unserviceable firearm.** A firearm which is incapable of discharging a shot by means of an explosive and incapable of being readily restored to a firing condition.

## PART 181—COMMERCE IN EXPLOSIVES

### Subpart B—Definitions

#### § 181.11 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 meanings 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 term "includes" and "including" do not exclude other things not enumerated which are in the same general class or are otherwise within the scope thereof.

**Act.** Chapter 40 of title 18 of the United States Code.

**Ammunition.** Small arms ammunition or cartridge cases, primers, bullets, or smokeless propellants designed for use in small arms, and shall include percussion caps and 3/32-inch pyrotechnic safety fuses. The term shall not include black powder.

**Approved storage facility.** A facility for the storage of explosive materials conforming to the requirements of this part and covered by a license or permit issued under this part.

**Army-type structure.** A structure approved by the Department of Defense for the storage of explosive materials.

**Blasting agent.** Any material or mixture, consisting of fuel and oxidizer, intended for blasting, not otherwise defined as an explosive: *Provided*, That the finished product, as mixed for use or shipment, cannot be detonated by means of a numbered 8 test blasting cap when unconfined. A numbered 8 test blasting cap is one containing 2 grams of a mixture of 80 percent mercury fulminate and 20 percent potassium chlorate, or a blasting cap of equivalent strength.

**Business premises.** When used with respect to a manufacturer, importer or dealer the property on which explosive materials are or will be manufactured, imported, stored or distributed. Such premises shall include the property where the records of a manufacturer, importer or dealer are or will be maintained if different than the premises where explosive materials are or will be manufactured, imported, stored or distributed. When used with respect to a user of explosive materials, the property on which the explosive materials are or will be received or stored. Such premises shall include the property where the records of such user are or will be maintained if different than the premises where explosive materials are or will be received or stored.

**Crime punishable by imprisonment for a term exceeding 1 year.** Any offense for which the maximum penalty, whether or not imposed, is capital punishment or imprisonment in excess of 1 year. The term shall not include (a) any Federal or State offenses pertaining to antitrust violations, unfair trade practices or restraints of trade, or (b) any State offense (other than one involving a firearm or explosive) classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of 2 years or less.

**Customs officer.** Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.

**Dealer.** Any person engaged in the business of distributing explosive materials at wholesale or retail.

**Detonator.** Any device containing a detonating charge that is used for initiating detonation in an explosive; the term includes electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses and detonating-cord delay connectors.

**Director.** The Director, Bureau of Alcohol, Tobacco, and Firearms, the Department of the Treasury, Washington, D.C.

**Distribute.** To sell, issue, give, transfer, or otherwise dispose of. The term does not include a mere change of possession from a person to his agent or employee in connection with the agency or employment.

**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, 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, application, request, certificate), 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."

**Explosive materials.** Explosives, blasting agents, and detonators. Such materials shall include all items in the Explosives List provided for in § 181.23.

**Explosives.** Any chemical compound mixture, or device, the primary or common purpose of which is to function by explosion; the term includes dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters.



**Fugitive from justice.** Any person who has fled from the jurisdiction of any court of record to avoid prosecution for any crime or to avoid giving testimony in any criminal proceeding. The term shall also include any person who has been convicted of any crime and has fled to avoid imprisonment.

**Importer.** Any person engaged in the business of importing or bringing explosive materials into the United States for purposes of sale or distribution.

**Indictment.** Includes an indictment or information in any court under which a crime punishable by imprisonment for a term exceeding 1 year may be prosecuted.

**Inhabited building.** Any building regularly occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store, or other structure where people are accustomed to assemble, except any building occupied in connection with the manufacture, transportation, storage, or use of explosive materials.

**Internal revenue district.** An internal revenue district under the jurisdiction of a District Director of Internal Revenue.

**Interstate or foreign commerce.** Commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia, and commerce between places within the same State but through any place outside of that State.

**Licensed dealer.** A dealer licensed under the provisions of this part.

**Licensed importer.** An importer licensed under the provisions of this part.

**Licensed manufacturer.** A manufacturer licensed under the provisions of this part to engage in the business of manufacturing explosive materials for purposes of sale or distribution or for his own use.

**Licensed manufacturer-limited.** A manufacturer licensed under the provisions of this part to engage in the business of manufacturing explosive materials for his own use and not for sale or distribution.

**Licensee.** Any importer, manufacturer, or dealer licensed under the provisions of this part.

**Manufacturer.** Any person engaged in the business of manufacturing explosive materials for purposes of sale or distribution or for his own use.

**Manufacturer-limited.** Any person engaged in the business of manufacturing explosive materials for his own use and not for sale or distribution.

**Permittee.** Any user of explosives for lawful purpose, who has obtained a user permit under the provisions of this part.

**Person.** Any individual, corporation, company, association, firm, partnership, society, or joint stock company.

**Region.** A Bureau of Alcohol, Tobacco and Firearms Region.

**Regional regulatory administrator.** The principal ATF regional official responsible for administering regulations in this part.

**Service Center Director.** A director of an internal revenue service center.

**State.** A State of the United States. The term shall include the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).

**State of residence.** The State in which an individual regularly resides or maintains his home. Temporary sojourn in a State does not make the State of temporary sojourn the State of residence.

**U.S.C.** The United States Code.

**User-limited permit.** A user permit valid only for a single purchase transaction, a new permit being required for a subsequent purchase transaction.

**User permit.** A permit issued to a person authorizing him (1) to acquire for his own use explosive materials from a licensee in a State other than the State in which he resides or from a foreign country, and (2) to transport explosive materials so acquired in interstate or foreign commerce.

## PART 186—GAUGING MANUAL

### Subpart B—Definitions

#### § 186.11 Meaning of terms.

When used in this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings 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.

**ATF Officer.** An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

**Bulk conveyance.** Any tank car, tank truck, tank ship, tank barge, or other similar container approved by the Director, authorized for the conveyance of spirits (including denatured spirits) in bulk.

**CFR.** The Code of Federal Regulations.

**Container.** Any receptacle, vessel, or form of package, bottle, tank, or pipeline used, or capable of use, for holding, storing, transferring or conveying distilled spirits.

**Denatured spirits or denatured alcohol.** Spirits to which denaturants have been added pursuant to formulas prescribed in Part 212 of this chapter.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

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

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

**Package.** Any cask, barrel, drum, or similar container approved under the provisions of this chapter.

**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 United States gallon of proof spirits, or the alcoholic equivalent thereof.

**Proof spirits.** That liquid which contains one-half its volume of ethyl alcohol of a specific gravity of seven thousand nine hundred and thirty-nine ten-thousandths (0.7939) in vacuum at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity.

**Regional regulatory administrator.** The principal ATF regional official responsible for administering regulations in this part.

**Spirits, spirituous liquor, or distilled spirits.** That substance known as ethyl alcohol, ethanol, or spirits of wine, including all dilutions and mixtures thereof, from whatever source or by whatever process produced, and shall include whisky, brandy, rum, gin, and vodka, but not denatured spirits unless specifically stated.

**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, the tax is determined on a proof gallon basis. When spirits are less than 100 degrees of proof, the tax is determined on a wine gallon basis.

**This chapter.** Chapter I, Title 26, CFR.

**U.S.C.** The United States Code.

## PART 194—LIQUOR DEALERS

### Subpart B—Definitions

#### § 194.11 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.

**ATF Officer.** An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

**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 alco-



hol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor.

**Bonded wine cellar.** An establishment qualified under this chapter for the production, blending, cellar treatment, storage, bottling, and packaging or repackaging of untaxed wine.

**Brewery.** An establishment qualified under this chapter for the production of beer.

**CFR.** The Code of Federal Regulations.

**Dealer.** Any person who sells, or offers for sale, any distilled spirits, wines, or beer.

**Denatured spirits or denatured alcohol.** Spirits to which denaturants have been added as prescribed under this chapter.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

**Director of the service center.** A director of an internal revenue service center.

**Distilled spirits or spirits.** The 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 alcohol, whisky, brandy, rum, gin, vodka, cordials, liqueurs, and cocktails (except cordials and cocktails containing no alcoholic liquors other than wine as defined herein).

**Distilled spirits plant.** An establishment qualified under this chapter for the production, bonded storage, rectification, or bottling of distilled spirits.

**District director.** A district director of internal revenue.

**Fiscal year.** The period from July 1 on one calendar year through June 30 of the following year.

**Gallon or wine gallon.** A United States gallon of liquid measure equivalent to the volume of 231 cubic inches.

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

**Liquor bottle.** A bottle made of glass or earthenware, or of other suitable material approved by the Director, designed or intended for use as a container for distilled spirits for sale for beverage purposes.

**Liquors.** Distilled spirits, wines, or beer.

**Liter.** A metric unit of capacity equal to 1,000 cubic centimeters of alcoholic beverage, and equivalent to 33.814 fluid ounces. A liter is divided into 1,000 milliliters. Milliliter or milliliters may be abbreviated as "ml".

**Person.** An individual, a trust, estate, partnership, association or other unincorporated organization, fiduciary, company, or corporation, or the District of Columbia, a State, or a political subdivision thereof (including a city, county, or other municipality).

**Place, or place of business.** The entire office, plant, or area of the business in any one location under the same proprietorship; and passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises shall not be deemed a separation for special tax purposes, if the various divisions are otherwise contiguous.

**Regional regulatory administrator.** The principal ATF regional official responsible for administering regulations in this part.

**Sale at retail or retail sale.** Sale of liquors to a person other than a dealer.

**Sale at wholesale or wholesale sale.** Sale of liquors to a dealer.

**Special tax.** The occupational tax imposed on a dealer in liquors or a dealer in beer.

**Tax year.** The period from July 1 of one calendar year through June 30 of the following year.

**U.S.C.** The United States Code.

**Wine.** All kinds and types of wine (including imitation, substandard, and artificial wine, Vermouth and compounds sold as wine) having not in excess of 24 percent of alcohol by volume.

## PART 195—PRODUCTION OF VINEGAR BY THE VAPORIZING PROCESS

### Subpart B—Definitions

#### § 195.10 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meanings ascribed in this subpart.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

**Distilled spirits.** "Distilled spirits" shall mean the substance known as ethyl alcohol, ethanol, spirits, or spirits of wine, including all dilutions and mixtures thereof, from whatever source or by whatever process produced, and includes low wines produced by the vaporizing process in the manufacture of vinegar.

**Distilling materials.** "Distilling materials" shall mean the fermented mash of grain, molasses, or other materials produced for distillation.

**District director.** "District director" shall mean the district director of internal revenue.

**Gallon.** "Gallon" or "wine gallon" shall mean a United States gallon of liquid measure equivalent to the volume of 231 cubic inches.

**Grain gallon.** "Grain gallon" shall mean a gallon of vinegar of 100 grain strength.

**Grain strength.** "Grain strength" is a measure of the acetic acid content of vinegar, expressed as 10 times the grams of acetic acid per 100 ml.

**Including.** The term "including" shall not be deemed to exclude things

other than those enumerated which are in the same general class.

**Inclusive language.** Words in the plural form shall include the singular, and vice versa, and words in the masculine gender shall include the feminine, a trust, estate, association, partnership, company or corporation.

**I.R.C.** "I.R.C." shall mean the Internal Revenue Code of 1954, as amended.

**Person, proprietor, vinegar maker.** "Person," "proprietor," or "vinegar maker," shall include natural persons, trusts, estates, associations, partnerships, companies and corporations.

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

**Proof gallon.** "Proof gallon" shall mean the alcoholic equivalent of a United States gallon at 60 degrees Fahrenheit, containing 50 percent of ethyl alcohol by volume.

**Regional regulatory administrator.** The principal ATF regional official responsible for administering regulations in this part.

**U.S.C.** "U.S.C." shall mean the United States Code.

**Vinegar plant or vinegar factory.** "Vinegar plant" or "vinegar factory" shall mean an establishment qualified under this part for the manufacture of vinegar by the vaporizing process.

## PART 196—STILLS

### Subpart B—Definitions

#### § 196.5 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meanings ascribed in this subpart.

**Condenser.** "Condenser" shall mean any apparatus capable of being used when connected with a still, for condensing or liquefying alcoholic or spirituous vapors, but shall not include condensers to be used with laboratory stills or stills used for distilling water or other nonalcoholic materials where the cubic capacity of such stills is one gallon or less.

**Director.** The Director, Bureau of Alcohol, Tobacco, and Firearms, the Department of the Treasury, Washington, D.C.

**Director of the service center.** "Director of the service center" shall mean the Director, Internal Revenue Service Center, in each of the internal revenue regions.

**Distilled spirits or spirits.** Distilled spirits or spirits shall mean that substance known as ethyl alcohol, ethanol, or spirits of wine, including all dilutions and mixtures thereof, from whatever source or by whatever process produced, and shall include whisky, brandy, rum, gin, and vodka.

**Distilling.** "Distilling" shall mean the distillation of spirits as defined by



section 5002(a)(6)(A) I.R.C. Such distillation shall include: (a) The original manufacture of distilled spirits from mash, wort, or wash, or any material suitable for the production of spirits; (b) the redistillation of spirits in the course of original manufacture; (c) the redistillation of spirits, or products containing spirits within the provisions of section 5082, I.R.C.; (d) the distillation, redistillation, or recovery of spirits or of completely or specially denatured spirits, or of articles containing spirits or completely or specially denatured spirits; and (e) the redistillation or recovery of tax-free spirits.

**Distilling apparatus.** "Distilling apparatus" shall mean any still or condenser defined in this section.

**District director.** "District director" shall mean a district director of internal revenue.

**District director of customs.** The district director of customs at a headquarters port of the district (except the district of New York, N.Y.), the area directors of customs in the district of New York, N.Y., and the port director at a port not designated as a headquarters port.

**Inclusive language.** Words in the plural form shall include the singular, and vice versa, and words in the masculine gender shall include the feminine, associations, partnerships, and corporations.

**I.R.C.** "I.R.C." shall mean the Internal Revenue Code of 1954.

**Person, manufacturer, distiller, user.** "Person," "manufacturer," "distiller," or "user" shall be construed to mean and include an individual, a trust, estate, partnership, association, company, or corporation.

**Regional regulatory administrator.** The principal ATF regional official responsible for administering regulations in this part.

**Still.** "Still" shall mean any apparatus capable of being used for separating alcoholic or spirituous vapors, or spirituous solutions, or spirits, from spirituous solutions or mixtures, but shall not include stills used for laboratory purposes or stills used for distilling water or other nonalcoholic materials where the cubic capacity of such stills is one gallon or less.

## PART 197—DRAWBACK ON DISTILLED SPIRITS USED IN MANUFACTURING NONBEVERAGE PRODUCTS

### Subpart B—Definitions

#### § 197.5 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meaning ascribed in this subpart.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the

Department of the Treasury, Washington, D.C.

**Director of the service center.** "Director of the service center" shall mean the Director, Internal Revenue Service Center, in each of the internal revenue regions.

**Distilled spirits.** Distilled spirits shall mean that substance known as ethyl alcohol, ethanol, spirits, or spirits of wine, including all dilutions and mixtures thereof, from whatever source or by whatever process produced, including alcohol, whisky, brandy, rum, gin, and vodka, all of which are fully taxpaid or tax-determined at the distilled spirits rate.

**District director.** "District director" shall mean a district director of internal revenue.

**Filed.** Subject to the provisions of §§ 301.7502 through 301.7503-1 of this chapter, a claim for drawback shall be deemed to have been "filed" when it is delivered to the office of the proper assistant regional commissioner, and by that office received.

**Intermediate products.** "Intermediate products" shall mean products containing distilled spirits which are not subject to drawback until used in a nonbeverage product eligible for drawback.

**I.R.C.** "I.R.C." shall mean the Internal Revenue Code of 1954.

**Nonbeverage products.** "Nonbeverage products" shall mean medicines, medicinal preparations, food products, flavors, or flavoring extracts, in the manufacture or production of which distilled spirits are used under the provisions of sections 5131-5134, I.R.C., and this part, and which are unfit for use for beverage purposes.

**Regional regulatory administrator.** The principal ATF regional official responsible for administering regulations in this part.

**Time distilled spirits are used.** The "time" at which distilled spirits shall be deemed to have been used is when the product contains the ingredients called for by an approved formula, or formulas prescribed by the United States Pharmacopoeia, the National Formulary, or the Homeopathic Pharmacopoeia of the United States, as the case may be.

**Total annual withdrawals.** The term "total annual use" shall mean the total quantity of distilled spirits (proof gallons), which are used in the manufacture or production of nonbeverage products during a year.

**U.S.C.** "U.S.C." shall mean the United States Code.

**Used.** Distilled spirits shall be deemed to have been "used" in the manufacture of a product under this part, when such spirits are either consumed in such manufacture or are incorporated in the product: *Provided*, That spirits lost by causes such as spillage, leakage, breakage or theft,

prior to or during the process of manufacture, shall not be deemed to be consumed in such manufacture.

**Year.** "Year" shall mean the period which begins July 1 and ends on the following June 30.

## PART 200—RULES OF PRACTICE IN PERMIT PROCEEDINGS

### Subpart B—Definitions

#### § 200.5 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 subpart. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "include" and "including" do not exclude things not enumerated which are in the same general class.

**Administrative law judge.** The person appointed pursuant to 5 U.S.C. 3105, designated to preside over any administrative proceedings under this part.

**Applicant.** "Applicant" shall mean any person who has filed an initial application for a permit under the Federal Alcohol Administration Act or Internal Revenue Code.

**Application.** "Application" shall mean any application for a permit under the Federal Alcohol Administration Act or Internal Revenue Code. The term "initial application" shall mean an application for an original permit for operations not covered by an existing permit. The term "renewal application" shall mean an application timely filed for the renewal of an existing permit.

**Attorney for the Government.** The attorney for the Government shall mean the attorney in the office of the chief counsel (assigned to the National or regional office) authorized to represent the assistant regional commissioner in the proceeding.

**CFR.** "CFR" shall mean the Code of Federal Regulations.

**Citation.** "Citation" shall include any notice contemplating the disapproval of an application (whether initial or renewal) or any order to show cause why a permit should not be suspended, revoked or annulled.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

**Initial decision.** "Initial decision" shall mean the decision (order) of the assistant regional commissioner in any proceeding on an initial application for a permit, and the decision of the examiner in any proceeding on the suspension, revocation or annulment of a permit or on the disapproval of a renewal application.

**I.R.C.** "I.R.C." shall mean the Internal Revenue Code.



## § 200.16 Other terms.

Any other term defined in the Federal Alcohol Administration Act (27 U.S.C. 201), the Internal Revenue Code (26 U.S.C.) or the Administrative Procedure Act (5 U.S.C. 1001) where used in the regulations in this part shall have the meaning assigned to it therein.

**Permit.** (a) *Basic permit.* "Basic permit" shall mean the document authorizing the person named therein to engage in a designated business or activity under the Federal Alcohol Administration Act.

(b) *Industrial use permit.* "Industrial use permit" shall mean a document issued pursuant to section 5271(a), I.R.C., authorizing a person named therein to use distilled spirits free of tax, deal in or use specially denatured spirits free of tax, or recover specially or completely denatured spirits, as described therein.

(c) *Operating permit.* "Operating permit" shall mean the document issued pursuant to section 5171(b), I.R.C., authorizing the person named therein to engage in the business described therein.

(d) *Tobacco permit.* "Tobacco permit" shall mean the document issued pursuant to section 5713(a), I.R.C., authorizing the person named therein to engage in the business described therein.

(e) *Withdrawal permit.* "Withdrawal permit" shall mean the document issued pursuant to section 5271(a), I.R.C., authorizing the person named therein to withdraw tax-free spirits or specially denatured spirits, as specified therein.

**Permittee.** "Permittee" shall mean any person holding a basic permit under the Federal Alcohol Administration Act or the Internal Revenue Code, as aforesaid.

**Person.** "Person" shall mean an individual, trust, estate, partnership, association, company, or corporation.

**Recommended decision.** "Recommended decision" shall mean the advisory decision of the examiner in any proceeding on an initial application for a permit.

**Regional regulatory administrator.** The principal ATF regional official responsible for administering regulations in this part.

**Respondent.** "Respondent" shall mean any person holding a permit against which an order has been issued to show cause why such permit should not be suspended, revoked or annulled, or against the renewal of which a notice of contemplated disapproval has been issued.

**U.S.C.** "U.S.C." shall mean the United States Code.

## PART 201—DISTILLED SPIRITS PLANTS

## Subpart B—Definitions

## § 201.11 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.

**Application for registration.** The application required under 26 U.S.C. 5171(A).

**Article.** A product, containing denatured spirits, which was manufactured under Part 211 of this chapter.

**ATF officer.** An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

**Basic permit.** The document authorizing the person named therein to engage in a designated business or activity under the Federal Alcohol Administration Act.

**Bonded premises.** The premises of a distilled spirits plant, or part thereof, as described in the application for registration, 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 warehouse.** The part of the bonded premises, as described in the application for registration, in which spirits are authorized to be stored after entry for deposit in storage and prior to payment or determination of the internal revenue tax or withdrawal as provided in 26 U.S.C. 5214 OR 7510.

**Bottler.** A proprietor of a distilled spirits plant qualified under this part to bottle taxpaid spirits or taxpaid spirits and wines.

**Bottling in bond.** When used in Subpart K of this part, the bottling of distilled spirits under 26 U.S.C. 5233 prior to determination of tax. When used in Subpart Na of this part, the bottling of distilled spirits in accordance with the conditions and requirements of 26 U.S.C. 5233, and under the supervision provided for in 26 U.S.C. 5202(g), but after determination of tax. When used elsewhere in this part, either act of bottling defined herein, unless otherwise specifically provided.

**Bottling-in-bond facilities.** The part of the bonded premises in which spirits are bottled in bond under 26 U.S.C. 5233, prior to tax determination.

**Bottling premises.** The premises of a distilled spirits plant, or part thereof, as described in the application for registration, on which operations relating to the rectification or bottling of spirits or wines on which the tax has been paid or determined are authorized to be conducted.

**Bulk container.** Any approved container of five gallons or more.

**Bulk conveyance.** A tank car, tank truck, tank ship, tank barge, or a compartment of any such conveyance, or any other container approved by the Director for the conveyance of comparable quantities of spirits, including denatured spirits.

**Business day.** Any day, other than a Saturday, Sunday, or a legal holiday. (The term legal holiday includes all holidays in the District of Columbia and statewide holidays in the particular State in which the claim, report, or return, as the case may be, is required to be filed, or the act is required to be performed.)

**Carrier.** Any person, company, corporation, or organization, including a proprietor, owner, consignor consignee, or bailee, who transports distilled spirits (including denatured spirits) in any manner for himself or others.

**CFR.** The Code of Federal Regulations.

**Completions.** The spirits products bottled and cased or otherwise packaged or placed in approved containers for removal from the bottling premises.

**Computation year.** The period from July 1 of one calendar year through June 30 of the following year.

**Container.** A receptacle, vessel, or form of bottle, can, package, tank, or pipeline (where specifically included) used or capable of being used to contain, store, transfer, convey, remove, or withdraw spirits, including denatured spirits.

**Delegate.** Any officer, employee, or agency of the Department of the Treasury authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context. 8

**Denaturant or denaturing material.** Any material authorized under Part 212 of this chapter for addition to spirits in the production of denatured spirits.

**Denatured spirits.** Spirits to which denaturants have been added as provided in Part 212 of this chapter.

**Denaturing facilities.** The facilities of the bonded premises in which the denaturation of spirits is authorized to be conducted.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

**Director of the service center.** A director of an internal revenue service center.

**Distillery.** A distilled spirits plant, or part thereof, as described in the application for registration, authorized for the production of spirits.

**Distilling material.** Any fermented or other alcoholic substance capable of, or intended for use in, the original distillation or other original processing of spirits.



**District director.** A district director of internal revenue.

**District director of customs.** The district director of customs at a headquarters port of the district (except the district of New York, N.Y.); the area directors of customs in the district of New York, N.Y.; and the port director at a port not designated as a headquarters port.

**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, claim, certificate), 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."

**Export or 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 and shall include shipments to any possession of the United States. For the purposes of this part, shipments to the Commonwealth of Puerto Rico, to the territories of the Virgin Islands, American Samoa, and Guam, and to the Panama Canal Zone shall also be treated as exportations.

**Fermenting material.** Any material which is to be subjected to a process of fermentation to produce distilling material.

**Fiduciary.** A guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

**Fiscal year.** The period from July 1 of one calendar year through June 30 of the following year.

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

**In bond.** When used with respect to spirits (including denatured spirits) refers to such spirits possessed under bond to secure the payment of the internal revenue tax imposed by 26 U.S.C. 5001(a)(1), and in respect to which the tax imposed by such section has not been determined as provided in this part, and includes such spirits on the bonded premises of a distilled spirits plant, in transit between such premises, in transit from customs custody to such premises, and such spirits withdrawn without payment of tax under 26 U.S.C. 5214, and with respect to which relief from liability has not yet occurred under the provisions of 26 U.S.C. 5005(e)(2).

**Intermediate product.** Any product manufactured pursuant to an approved formula not intended for sale as such but for use in the manufacture of a rectified product.

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

**Liquor bottle.** A bottle made of glass or earthenware, or of other suitable material approved by the Director, designed or intended for use as a container for distilled spirits for sale for beverage purposes.

**Liter.** A metric unit of capacity equal to 1,000 cubic centimeters of alcoholic beverage, and equivalent to 33.814 fluid ounces. A liter is divided into 1,000 milliliters. Milliliter or milliliters may be abbreviated as "ml".

**Lot identification.** The lot identification described in § 201.513a.

**Mash, wort, wash.** Any fermented material capable of, or intended for, use as a distilling material.

**Nonindustrial use.** As applied to spirits, shall have the meaning ascribed in 27 CFR Part 2.

**Operating permit.** The document issued pursuant to 26 U.S.C. 5171(b), authorizing the person named therein to engage in the business or operation described therein.

**Package.** A cask or barrel or similar wooden container, or a drum or similar metal container.

**Package identification number.** The package identification number described in § 201.513a.

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

**Plant or distilled spirits plant.** An establishment qualified under this part for the production, bonded storage, or bottling of spirits, or for rectification, or for any combination of such operations.

**Plant number.** The number assigned to a distilled spirits plant by the assistant regional commissioner, preceded by the abbreviation of the State in which the plant is located and the letters DSP; for example, "DSP-Md-17".

**Production facilities.** The facilities of the bonded premises qualified under this part for the production of spirits.

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

**Proof of distillation.** The composite proof of the spirits at the time the production gauge is made, or, if the spirits had been reduced in proof prior to the production gauge, the proof of the spirits prior to such reduction, unless the spirits are subsequently redistilled at a higher proof than the proof prior to reduction.

**Proof gallon.** A gallon of liquid 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 qualified under this part to operate the distilled spirits plant.

**Recovered article.** An article containing specially denatured spirits salvaged without all of its original ingredients, or an article containing completely denatured alcohol salvaged without all of the denaturants for completely denatured alcohol, under Part 211 of this chapter.

**Rectification.** Any act constituting engaging in the business of rectifying.

**Rectifier.** Every person who rectifies, purifies, or refines distilled spirits or wines by any process (other than by original and continuous distillation, or original and continuous processing from mash, wort, wash, or any other substance, through continuous closed vessels and pipes, until the production thereof is complete), and every person who, without rectifying, purifying, or refining distilled spirits, shall, by mixing such spirits, wine, or other liquor with any material, manufacture any spurious, imitation, or compound liquors for sale, under the name of whisky, brandy, rum, gin, wine, spirits, cordials, or wine bitters, or any other name, shall be regarded as a rectifier, and as being engaged in the business of rectifying.

**Rectifying facilities.** The facilities of the bottom premises qualified under this part for the rectification of tax-paid spirits or wines.

**Region.** A Bureau of Alcohol, Tobacco and Firearms region.

**Regional regulatory administrator.** The principal regional official responsible for administering regulations in this part.

**Sealed conveyance.** A conveyance, secured by Government seals or other devices approved by the Director, for the transportation of packages of spirits in bond.

**Season.** The period from January 1 through June 30 is the spring season and the period from July 1 through December 31 is the fall season.

**Secretary.** The Secretary of the Treasury or his delegate.

**Spirits or distilled spirits.** That substance known as ethyl alcohol, ethanol, or spirits of wine, including all dilutions and mixtures thereof, from whatever source or by whatever process produced, and shall include, whisky, brandy, rum, gin, and vodka, but not denatured spirits unless specifically stated. Effective July 1, 1972, for the purposes of the requirements of this part relating to liquor bottles, labels, and strip stamps, the term "spirits" or "distilled spirits" shall not include mixtures containing wine, bottled at 48° proof or less, if the mixture contains more than 50 percent wine on a proof gallon basis.

**Spirits residues.** Residues, containing distilled spirits, or a manufacturing process related to the production of an article under Part 211 of this chapter.

**Stillage.** The residue of distilling material after distillation.



**Tank truck.** A tank-equipped semi-trailer, trailer, or truck conforming to the requirements of this part.

**Tax-determined or determined.** When used with respect to the tax on any distilled spirits to be withdrawn from bond on determination of tax, shall mean that all things (other than packaging, marking, and stamping incident to removal) required by law and this part to be done before such spirits may be removed from the bonded premises (and culminating in execution by the internal revenue officer of his certificate of tax determination) have been completed. When used in reference to taxes with respect to rectified products, shall mean that the taxable quantity of spirits of wines has been established, and the tax payable with respect thereto has been calculated as prescribed in this part.

**Tax gallon.** The unit of measure of spirits for the imposition of tax under 26 U.S.C. 5001. When spirits are 100 degrees of proof or more at the time of tax determination, the tax is determined on a proof gallon basis. When spirits are less than 100 degrees of proof at the time of tax determination, the tax is determined on a wine gallon basis.

**Taxes on rectified products.** The taxes imposed by 26 U.S.C. 5021, 5022, and 5041 on products manufactured on bottling premises.

**Taxpaid.** When used with respect to distilled spirits, rectified products, or wines shall mean that all applicable taxes imposed by law in respect of such articles have been determined or paid as provided by law.

**Taxpaid bottling facilities.** The facilities of the bottling premises qualified under this part for the bottling or packaging of taxpaid spirits or taxpaid spirits and wines, but not qualified for rectification.

**This chapter.** Chapter I, Title 26, Code of Federal Regulations.

**Transfer in bond.** The removal of spirits (including denatured spirits) from one bonded premises to another bonded premises pursuant to this part.

**Unfinished spirits.** Spirits in the production system prior to production gauge.

**U.S.C.** The United States Code.

**Wine spirits.** As authorized for use in wine production by 26 U.S.C. 5373, means brandy or wine spirits produced in a distilled spirits plant (with or without the use of water to facilitate extraction and distillation) exclusively from (a) fresh or dried fruit, or their residues, (b) the wine or wine residues therefrom, or (c) special natural wine; except that where, in the production of natural wine or special natural wine, sugar has been used, the wine or the residuum thereof may not be used if the unfermented sugars therein have been re-fermented. Such wine spirits shall not be reduced with water from the distillation proof, nor be dis-

tilled at less than 140 degrees of proof (except that commercial brandy aged in wood for a period of not less than 2 years, and barreled at not less than 100 degrees or proof, shall be deemed wine spirits).

## PART 211—DISTRIBUTION AND USE OF DENATURED ALCOHOL AND RUM

### Subpart B—Definitions

#### § 211.11 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 meanings 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.

**Alcohol.** Those spirits known as ethyl alcohol, ethanol, or spirits of wine, from whatever source or by whatever process produced; the term does not include such spirits as whisky, brandy, rum, gin, vodka, or products of rectification.

**Article.** Any substance or preparation in the manufacture of which denatured spirits are used, including the product obtained by further manufacture or by combination with other materials, if the article subjected to further manufacture or combination contained denatured spirits.

**ATF Officer.** An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

**Bonded dealer.** A person who holds an industrial use permit to deal in specially denatured alcohol or specially denatured rum for resale to persons authorized to purchase or receive specially denatured alcohol or specially denatured rum in accordance with this part.

**Bulk conveyance.** Any tank car, tank truck, tank ship, or tank barge, or a compartment of any such conveyance, or any other container approved by the Director for the conveyance of comparable quantities of denatured spirits or articles.

**CFR.** The Code of Federal Regulations.

**Completely denatured alcohol.** Those spirits known as alcohol, as defined in this section, denatured pursuant to completely denatured alcohol formulas prescribed in Subpart C of Part 212 of this chapter.

**Delegate.** Any officer, employee, or agency of the Department of the Treasury authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of author-

ity, to perform the function mentioned or described in the context.

**Denaturant.** Any one of the materials authorized under the provisions of Part 212 of this chapter for addition to spirits in the production of denatured spirits.

**Denatured spirits.** Alcohol or rum to which denaturants have been added as provided in Part 212 of this chapter.

**Denaturer.** The proprietor of a distilled spirits plant who denatures alcohol or rum pursuant to Part 201 of this chapter.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

**Distributor.** Any person who sells completely denatured alcohol, other than a proprietor of a distilled spirits plant who sells such alcohol at the plant premises, and any person who sells articles containing completely or specially denatured alcohol or specially denatured rum, other than the manufacturer thereof, except where otherwise specifically restricted in this part.

**Executed under penalties of perjury.** Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the 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."

**Fiduciary.** A guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

**Gallon.** The liquid measure equivalent to the volume of 231 cubic inches.

**Industrial use permit.** The document issued pursuant to section 5271(a), I.R.C., authorizing the person named therein to deal in or use specially denatured alcohol or specially denatured rum or to recover denatured alcohol, specially denatured rum, or articles, as described therein.

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

**Manufacturer or user.** A person who holds an industrial use permit to use specially denatured alcohol or specially denatured rum or to recover completely or specially denatured alcohol, specially denatured rum, or articles.

**Permittee.** Any person holding an industrial use permit authorized under this part.

**Person.** An individual, trust, estate, partnership, association, company, or 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.

**Proprietary solvents.** Solvents containing more than 25 percent of alcohol by volume which are manufactured with specially denatured alcohol in accordance with proprietary solvent formulations as authorized by this part.

**Recover.** To salvage, after use, specially denatured spirits, completely denatured alcohol without all of its original denaturants, or articles containing denatured spirits, if (1) such articles were made with specially denatured spirits and do not contain all of their original ingredients or (2) such articles were made with completely denatured alcohol and do not contain all of the original denaturants of the completely denatured alcohol.

**Recovered article.** An article containing specially denatured spirits salvaged without all of its original ingredients, or an article containing completely denatured alcohol salvaged without all of the denaturants for completely denatured alcohol.

**Recovered denatured alcohol.** Denatured alcohol (except completely denatured alcohol with all of the original denaturants remaining therein) which has been recovered.

**Recovered denatured rum.** Denatured rum which has been recovered.

**Region.** A Bureau of Alcohol, Tobacco and Firearms Region.

**Regional regulatory administrator.** The principal ATF regional official responsible for administering regulations in this part.

**Restoration.** Restoring to the original state (except that the restored material may or may not contain denaturants to the same extent as the original material) of recovered denatured alcohol, recovered specially denatured rum, or recovered articles containing denatured alcohol or specially denatured rum. Restoration includes bringing the alcohol content of the recovered product to 190 degrees of proof or more or to not less than the original proof if less than 190 degrees. Restoration also includes the removal of foreign materials by any suitable means.

**Rubbing alcohol base.** An article which, except for the addition of water, is manufactured with specially denatured alcohol in accordance with the formulas for rubbing alcohol provided in this part.

**Rum.** Any spirits produced from sugar cane products and distilled at less than 190° proof in such manner that the spirits possess the taste, aroma, and characteristics generally attributed to rum.

**Secretary.** The Secretary of the Treasury or his delegate.

**Special industrial solvents.** Solvents containing more than 25 percent of alcohol by volume which are manufactured with specially denatured alcohol in accordance with special industrial solvent formulations as authorized by this part.

**Specially denatured alcohol.** Those spirits known as alcohol, as defined in this section, denatured pursuant to the specially denatured alcohol formulas authorized under Subpart D of Part 212 of this chapter.

**Specially denatured rum.** Those spirits known as rum, as defined in this section, denatured pursuant to the specially denatured rum formula authorized under Subpart D of Part 212 of this chapter.

**Spirits or distilled spirits.** Alcohol or rum as defined in this part.

**Tank truck.** A tank-equipped semi-trailer, trailer, or truck, conforming to the requirements of this part.

**This chapter.** Chapter I, Title 26, Code of Federal Regulations.

**U.S.C.** The United States Code.

**Withdrawal permit.** The document issued pursuant to section 5271(a), I.R.C., authorizing the person named therein to withdraw specially denatured alcohol or specially denatured rum, as specified therein, from the premises of a distilled spirits plant or bonded dealer.

## PART 212—FORMULAS FOR DENATURED ALCOHOL AND RUM

### Subpart B—Definitions

#### § 212.5 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 meanings 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.

**Alcohol.** Those spirits known as ethyl alcohol, ethanol, or spirits of wine, from whatever source or by whatever process produced; the term does not include such spirits as whisky, brandy, rum, gin, vodka, or products of rectification.

**CFR.** The Code of Federal Regulations.

**C.D.A.** Completely denatured alcohol.

**Completely denatured alcohol.** Those spirits known as alcohol, as defined in this section, denatured pursuant to completely denatured alcohol formulas prescribed in Subpart C of this part.

**Denaturant.** A material authorized in accordance with this part, to be added to spirits in order to render

such spirits unfit for beverage or internal human medicinal use.

**Denatured spirits.** Alcohol or rum to which denaturants have been added as provided in this part.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

**Essential oil.** Any of the volatile odoriferous nature oils found in plants, which impart to such plants odor, and often other characteristic properties; also, imitations of such natural oils, and aromatic substances, and synthetic oils, which possess the denaturing characteristics of such natural oils.

**Gallon.** The liquid measure equivalent to the volume of 231 cubic inches.

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

**Manufacturer or user.** A person who holds an industrial use permit to use specially denatured alcohol or specially denatured rum, or to recover completely or specially denatured alcohol, specially denatured rum, or articles manufactured with denatured spirits.

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

**Regional regulatory administrator.** The principal ATF regional official responsible for administering regulations in this part.

**Rum.** Any spirits produced from sugar cane products and distilled at less than 190° proof in such manner that the spirits possess the taste, aroma, and characteristics generally attributed to rum.

**S.D.A.** Specially denatured alcohol.

**Specially denatured alcohol.** Those spirits known as alcohol, as defined in this section, denatured pursuant to the specially denatured alcohol formulas authorized under Subpart D of this part.

**Specially denatured rum.** Those spirits known as rum as defined in this section, denatured pursuant to the specially denatured rum formula authorized under Subpart D of this part.

**Spirits or distilled spirits.** Alcohol or rum as defined in this part.

## PART 213—DISTRIBUTION AND USE OF TAX-FREE ALCOHOL

### Subpart B—Definition

#### § 213.11 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 ex-



clude things not enumerated which are in the same general class.

**Alcohol.** Spirits having a proof of 190 degrees or more when withdrawn from bond, including all subsequent dilutions and mixtures thereof, from whatever source or by whatever process produced.

**ATF Officer.** An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

**CFR.** The Code of Federal Regulations.

**Delegate.** Any officer, employee, or agency of the Department of the Treasury authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

**Executed under penalties of perjury.** Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the 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."

**Fiduciary.** A guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

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

**Industrial use permit.** The document issued pursuant to section 5271(a), I.R.C., authorizing the person named therein to use tax-free alcohol, as described therein.

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

**Permittee.** Any person holding an industrial use permit on Form 1447.

**Person.** An individual, trust, estate, partnership, association, company, or 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.

**Region.** A Bureau of Alcohol, Tobacco and Firearms Region.

**Regional regulatory administrator.** The principal ATF regional official re-

sponsible for administering regulations in this part.

**Restoration.** Restoring to the original state of recovered tax-free alcohol, including redistillation of the recovered alcohol to 190 degrees or more of proof and the removal of foreign materials by redistillation, filtration, or other suitable means.

**Secretary.** The Secretary of the Treasury or his delegate.

**Spirits or distilled spirits.** The substance known as ethyl alcohol, ethanol, or spirits of wine, having a proof of 190 degrees or more when withdrawn from bond, including all subsequent dilutions and mixtures thereof, from whatever source or by whatever process produced.

**This chapter.** Chapter I, Title 26, Code of Federal Regulations.

**U.S.C.** The United States Code.

**Withdrawal permit.** The document issued pursuant to section 5271(a), I.R.C., authorizing the person named therein to withdraw tax-free alcohol, as specified therein, from the premises of a distilled spirits plant.

## PART 231—TAXPAID WINE BOTTLING HOUSES

### Subpart B—Definitions

#### § 231.10 Meaning of terms.

As used in this part, except as otherwise indicated in the context, terms shall have the meanings ascribed in this subpart.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

**Exception.** The definitions in this subpart are prescribed pursuant to the internal revenue laws governing the bottling, packaging and removal of taxpaid wine and shall not supersede or affect the requirements set forth in 27 CFR Part 4 relative to the labeling of wine under the provisions of the Federal Alcohol Administration Act.

**Foreign wine.** "Foreign wine" shall mean wine produced outside the continental United States, Alaska and Hawaii.

**Gallon or wine gallon.** "Gallon" or "wine gallon" shall mean the liquid measure equivalent to the volume of 231 cubic inches.

**Including.** "Including" shall not be deemed to exclude things other than those enumerated which are in the same general class.

**Inclusive language.** Words in the plural form shall include the singular and vice versa, and words in the masculine gender shall include the feminine, a trust, estate, partnership, association, company, or corporation.

**I.R.C.** "I.R.C." shall mean the Internal Revenue Code of 1954.

**Package.** "Package" shall mean any barrel, cask, keg, or similar container, or any demijohn (or bottle) of two gallons or more capacity, used to remove

wine from taxpaid wine bottling houses.

**Proprietor.** "Proprietor" shall mean the operator of a taxpaid wine bottling house.

**Regional regulatory administrator.** The principal ATF regional official responsible for administering regulations in this part.

#### § 231.22 Standard wine.

"Standard wine" shall mean natural wine, specially sweetened natural wine, special natural wine and standard agricultural wine produced in accordance with the provisions of Part 240 of this chapter.

#### § 231.23 Taxpaid wine.

"Taxpaid wine" shall mean wine on which the tax imposed by section 5041, I.R.C., has been determined, regardless of whether the tax has actually been paid or the payment of tax has been deferred under section 5061, I.R.C.

#### § 231.24 U.S.C.

"U.S.C." shall mean the United States Code.

#### § 231.25 United States wine.

"United States wine" shall mean wine produced on bonded wine cellar premises in the United States.

#### § 231.26 Wine.

"Wine," when used without qualification, means all still wine and includes vermouth and other special (flavored) natural wine.

## PART 240—WINE

### Subpart B—Definitions

#### § 240.10 Meaning of terms.

As used in this part, except as otherwise indicated in the context, terms shall have the meanings ascribed in this subpart.

**Affiliated persons or firms.** "Affiliated persons or firms" shall mean any one or more bonded wine cellar proprietors associated as members of the same farm cooperative, or any one or more bonded wine cellar proprietors affiliated within the meaning of section 17(a)(5) of the Federal Alcohol Administration Act, as amended.

**Agricultural wine.** "Agricultural wine" shall mean wine made from suitable agricultural products other than the juice of grapes, berries, or other fruits.

**Allied products.** "Allied products" shall mean commercial fruit products and by-products not taxable as wine.

**Amelioration.** "Amelioration" shall mean the addition to juice or wine before during and after fermentation, of either water or pure sugar, or a combination of water and pure sugar, or liquid sugar or invert sugar syrup, to adjust the acid content or to develop alcohol by fermentation.



**Artificially carbonated wine.** "Artificially carbonated wine" shall mean effervescent wine artificially charged with carbon dioxide.

**Bonded wine cellar.** "Bonded wine cellar" shall mean premises established under the provisions of subpart C, and shall include premises designated as "bonded winery."

**Concentrate plant.** "Concentrate plant" shall mean an establishment qualified under Part 18 of this chapter for the production of volatile fruit-flavor concentrates.

**Container.** "Container" shall mean any case, cask, barrel, keg, pipeline, tank, tank truck, railroad tank car, or other approved container (except bottles having a capacity of one gallon or less) used to remove wine from bonded wine cellars.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

**Director of the service center.** "Director of the service center" shall mean the Director, Internal Revenue Service Center, in each of the internal revenue regions.

**Distilled spirits plant.** "Distilled spirits plant" shall mean an establishment qualified under 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.** "District director" shall mean the district director of internal revenue.

**Effervescent wine.** "Effervescent wine" shall mean sparkling wine and artificially carbonated wine and shall not include still wine as defined in this part.

**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."

**Exception.** The definitions in this subpart are prescribed pursuant to the internal revenue laws governing the production and removal of wine, and shall not supersede or affect the requirements set forth in 27 CFR Part 4, relative to the labeling of wine under the provisions of the Federal Alcohol Administration Act.

**Fold.** "Fold" shall mean the ratio of the volume of the fruit mash or juice to the volume of the volatile fruit-flavor concentrate produced from such

fruit mash or juice; for example, one gallon of concentrate of 100-fold would be the product from 100 gallons of fruit mash or juice.

**Foreign wine.** "Foreign wine" shall mean wine produced outside the continental United States, Alaska, and Hawaii.

**Fruit wine.** "Fruit wine" shall mean wine made from the juice of sound, ripe fruit (including berries) other than grapes.

**Gallon.** "Gallon" or "wine gallon" shall mean a United States gallon of liquid measure equivalent to the volume of 231 cubic inches.

**General bonded area.** "General bonded area" shall mean the unsegregated portion of the bonded wine cellar not set aside and designated for a particular use.

**Heavy bodied blending wine.** "Heavy bodied blending wine" shall mean wine made from fruit without added sugar, with or without added wine spirits, and conforming to the definition of natural wine in all respects except as to maximum total solids content.

**In bond.** When used with respect to wine spirits, "in bond" means such spirits possessed under bond to secure the payment of the internal revenue tax thereon and in respect to which the tax has not been determined as provided in this chapter, and includes such spirits withdrawn without payment of tax under section 5214(a)(5), I.R.C., and with respect to which relief from liability has not yet occurred. When used with respect to wine "in bond" means wine possessed under bond to secure the payment of the internal revenue tax thereon and in respect to which the tax thereon has not been determined as provided in this chapter, and includes such wines on the bonded premises of a bonded wine cellar, in transit to a bonded wine cellar, and such wine withdrawn without payment of tax under section 5362, I.R.C., and with respect to which relief from liability has not yet occurred.

**Including.** "Including" shall not be deemed to exclude things other than those enumerated which are in the same general class.

**Inclusive language.** Words in the plural form shall include the singular and vice versa, and words in the masculine gender shall include the feminine, a trust, estate, partnership, company, or corporation.

**Invert sugar syrup.** Invert sugar syrup shall mean a solution of invert sugar which has been prepared by recognized methods of inversion from pure sugar. It shall be a substantially colorless solution and contain not less than 60 percent sugar by weight (60 degrees Brix).

**I.R.C.** "I.R.C." shall mean the Internal Revenue Code of 1954.

**Juice.** "Juice" (or "must") shall mean the unfermented juice of fruit,

berries and authorized agricultural products, exclusive of pulp, skins, or seeds.

**Lees.** "Lees" shall mean the settlings of wine.

**Liter or litre.** "Liter" or "litre" shall mean a metric unit of capacity equal to 1000 cubic centimeters of alcoholic beverage, and equivalent to 33.814 U.S. fluid ounces. A liter is subdivided into 1000 milliliters (ml).

**Liquid sugar.** "Liquid sugar" shall mean a substantially colorless pure sugar and water solution containing not less than 60 percent pure sugar by weight (60 degrees Brix).

**Person.** The term "person" shall mean an individual, trust, estate, partnership, association, company, or corporation.

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

**Proof gallon.** "Proof gallon" shall mean the alcoholic equivalent of a United States gallon at 60 degrees Fahrenheit, containing 50 percent of ethyl alcohol by volume.

**Proprietor.** "Proprietor" shall mean the operator of a bonded wine cellar, and shall include the term "winemaker" when the context so requires.

**Pure sugar.** "Pure sugar" shall mean pure refined sugar, suitable for human consumption, having a dextrose equivalent of not less than 95 percent on a dry basis, and produced from cane, beets, or fruit, or from grain or other sources of starch: *Provided*, That invert sugar syrup produced from such pure sugar by recognized methods of inversion may be used to prepare any sugar syrup, or solution of water and pure sugar.

**Regional regulatory administrator.** The principal ATF regional official responsible for administering regulations in this part.

**Same kind of fruit.** "Same kind of fruit" shall mean, in the case of grapes, all of the several species and varieties of grapes. In the case of fruits other than grapes, this term includes all of the several species and varieties of any given kind: *Provided*, That this shall not preclude a more precise identification of the composition of the product for the purpose of its designation.

**Sparkling wine.** "Sparkling wine," including champagne, shall mean effervescent wine charged with carbon dioxide, resulting from fermentation of the wine within a closed container or bottle.

**Special natural wine.** "Special natural wine" shall mean a product, such as vermouth, made pursuant to an approved formula in accordance with the provisions of section 5386, I.R.C., and Subpart S.

**Specially sweetened natural wine.** "Specially sweetened natural wine"



shall mean a product having a total solids content in excess of 17 percent by weight and an alcohol content of not more than 14 percent by volume, made in accordance with the provisions of section 5385, I.R.C., and Subpart R of this part.

**Standard agricultural wine.** "Standard agricultural wine" shall mean agricultural wine made within the limitations of Subpart T.

**Standard wine.** "Standard wine" shall mean natural wine, specially sweetened natural wine, special natural wine and standard agricultural wine, produced in accordance with the provisions of sections 5381, 5385, 5386, and 5387 of the Internal Revenue Code and Subparts P, Q, R, S, and T.

**Still wine.** "Still wine" shall mean noneffervescent wine, including those wines containing carbon dioxide as authorized in §§ 240.531 to 240.534, inclusive.

**Sugar.** "Sugar" shall mean pure sugar, liquid sugar, and invert sugar syrup.

**Taxpaid wine.** "Taxpaid wine" shall mean wine on which the tax imposed by section 5041, I.R.C., has been determined, regardless of whether the tax has actually been paid or the payment of tax has been deferred under section 5061, I.R.C.

**Total solids.** "Total solids" shall mean the degrees Brix of the dealcoholized wine.

**U.S.C.** "U.S.C." shall mean the United States Code.

**United States wine.** "United States Wine" shall mean wine produced on bonded wine cellar premises in the United States.

**Volatile fruit-flavor concentrate.** "Volatile fruit-flavor concentrate" shall mean any volatile fruit-flavor concentrate produced by any process which includes evaporations from any fruit mash or juice at a concentrate plant.

**Wine.** "Wine," when used without qualification, includes all still wines, champagne and other sparkling wines, artificially carbonated wine, and special natural wine produced on bonded wine cellar premises.

**Wine spirits.** "Wine spirits," as authorized for use in wine production by section 5373, I.R.C., means brandy or wine spirits produced in a distilled spirits plant (with or without the use of water to facilitate extraction and distillation) exclusively from (a) fresh or dried fruit, or their residues, (b) the wine or wine residues therefrom, or (c) special natural wine; except that where, in the production of natural wine or special natural wine, sugar has been used, the wine or the residuum thereof may not be used if the unfermented sugars therein have been re-fermented. Such wine spirits shall not be reduced with water from the distillation proof, nor be distilled at less than 140 degrees of proof (except that

commercial brandy aged in wood for a period of not less than 2 years, and barreled at not less than 100 degrees of proof, shall be deemed wine spirits for the purpose of this part).

**Withdrawn without payment of tax.** "Withdrawn free of tax" wherever used in this part, except in reference to wine withdrawn under section 5362(c) (7), (8), and (9), I.R.C., shall mean "withdrawn without payment of tax."

## PART 245—BEER

### Subpart B—Definitions

#### § 245.5 Meaning of terms.

When used in this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this subpart, as follows:

**ATF Officer.** An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

**Beer.** "Beer" shall mean 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.

(68A Stat. 612; 26 U.S.C. 5052.)

**Bottle and bottling.** "Bottle" shall mean a bottle, can, or similar container, and "bottling" shall mean the filling of bottles, cans, and similar containers.

**Brewer.** "Brewer" shall mean every person who brews or produces beer for sale.

(68A Stat. 617; 26 U.S.C. 5092.)

**Brewery.** "Brewery" shall mean the land and buildings described as such in the brewer's notice on Form 27-C, where beer is to be produced and packaged.

(72 Stat. 1389, as amended; 26 U.S.C. 5402, 5411.)

**Brewing.** "Brewing" shall mean the production of beer for sale.

**Business day.** "Business day" shall mean the 24-hour cycle of operations in effect at the brewery, which, if other than the calendar day, is subject to the approval of the assistant regional commissioner. The business day, having been once established, shall be applicable to all records and operations of the brewery, and shall not be changed without approval of the assistant regional commissioner.

**Cereal beverage.** "Cereal beverage" shall mean malt beverage, either fermented or unfermented, which contains, when ready for consumption, less than one-half of 1 percent of alcohol by volume.

**Delegate.** Any officer, employee, or agency of the Department of the Treasury authorized by the Secretary of the Treasury directly, or indirectly by one or more redelgations of authority, to perform the function mentioned or described in the context.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

**Director of the service center.** "Director of the service center" shall mean the director of the internal revenue service center in each of the internal revenue regions.

**District director.** "District director" shall mean a district director of internal revenue.

**Executed under penalties of perjury.** "Executed under penalties of perjury" shall mean 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."

**Gallon.** "Gallon" shall mean the liquid measure containing 231 cubic inches.

(68A Stat. 612; 26 U.S.C. 5052.)

**Includes and including.** "Includes" and "including" shall not be deemed to exclude things other than those enumerated which are in the same general class.

**Inclusive language.** Words in the plural form shall include the singular and vice versa, and words in the masculine gender shall include the feminine as well as individuals, trust, estates, partnerships, associations, companies, corporations, and other legal entities.

**I.R.C.** "I.R.C." shall mean the Internal Revenue Code of 1954.

**Package and packaging.** "Package" shall mean a bottle, can, keg, barrel, or other original consumer container, and "packaging" shall mean the filling of any package.

(72 Stat. 1390, as amended; 26 U.S.C. 5416.)

**Person.** "Person" shall mean and include an individual, a trust, estate, partnership, association, company, and corporation.

(68A Stat. 911; 26 U.S.C. 7701.)

**Region.** A Bureau of Alcohol, Tobacco and Firearms Region.

**Regional regulatory administrator.** The principal ATF regional official responsible for administering regulations in this part.



*Removed for consumption or sale.* "Removed for consumption or sale" (except when used with respect to beer removed without payment of tax as authorized by law) shall mean (a) the sale and transfer of possession of beer for consumption at the brewery or (b) any removal of beer from the brewery.

(72 Stat. 1333, as amended; 26 U.S.C. 5052.)

*Secretary.* "Secretary" shall mean the Secretary of the Treasury or his delegate.

*This chapter.* Chapter I, Title 27, Code of Federal Regulations.

*U.S.C.* "U.S.C." shall mean the United States Code.

## PART 250—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

### Subpart B—Definitions

#### § 250.11 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.

*Article.* Any preparation unfit for beverage use, made with or containing:

- (1) Wine or beer;
- (2) Distilled spirits or industrial spirits; or
- (3) Denatured spirits when such preparation is not manufactured under the provisions of this subchapter.

*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.

*Bureau of Alcoholic Beverage Taxes.* Bureau of Alcoholic Beverage Taxes of the Commonwealth of Puerto Rico.

*Business day.* Any day, other than a Saturday, Sunday, or a legal holiday. (The term legal holiday includes all holidays in the District of Columbia and all legal holidays in the Commonwealth of Puerto Rico.)

*Chief, Puerto Rican Operations.* The primary representative in Puerto Rico of the Bureau of Alcohol, Tobacco and Firearms. His complete address is: Chief, Puerto Rican Operations, Bureau of Alcohol, Tobacco and Firearms, Post Office Box 111, Government Post Office, San Juan, Puerto Rico 00902.

*Customs officer.* Any officer of the Customs Service or any commissioned,

warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.

*Denatured spirits.* Industrial spirits denatured in accordance with approved formulas in distilled spirits plants established and operated under the provisions of this subchapter relating to the establishment and operation of plants qualified to denature spirits in the United States, or, in respect of a product of the Virgin Islands, shall also mean spirits denatured in accordance with approved formulas in plants established under the provisions of the Virgin Islands regulations and shall include, unless otherwise limited, both completely and specially denatured spirits.

*Director.* The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

*Director of the service center.* A director of an internal revenue service center.

*Distilled spirits or spirits.* That substance known as ethyl alcohol, ethanol, or spirits of wine, including all dilutions and mixtures thereof, from whatever source or by whatever process produced, and shall include whisky, brandy, rum, gin, etc., but shall not include industrial spirits as defined in this part except when used in reference to such spirits which would be subject to tax if brought into the United States.

*District director.* A district director of internal revenue.

*District director of customs.* The district director of customs at a headquarters port of the district (except the district of New York, N.Y.); the area directors of customs in the district of New York, N.Y.; and the port director at a port not designated as a headquarters port.

*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."

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

*Importer.* Any person who imports distilled spirits, wines, or beer into the United States.

*Industrial spirits.* As to products of Puerto Rico, distilled spirits produced

and warehoused at and withdrawn from distilled spirits plants established and operated under the provisions of this subchapter relating to the establishment of such plants and the production, bonded warehousing, and withdrawal from bond of distilled spirits in the United States, or as to products of the Virgin Islands, distilled spirits produced, warehoused, and withdrawn under Virgin Islands regulations.

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

*Liquor bottle.* A bottle made of glass or earthenware, or of other suitable material approved by the Director, Alcohol, Tobacco and Firearms Division, designed or intended for use as a container for distilled spirits for sale for beverage purposes.

*Liquors.* Industrial spirits, distilled spirits, liqueurs, cordials and similar compounds, wines, and beer or any alcoholic preparation fit for beverage use.

*Officer-in-Charge.* The principal revenue officer in Puerto Rico charged with the duty of collecting internal revenue taxes in Puerto Rico, under the jurisdiction of the Director of the Office of International Operations, Internal Revenue Service, Treasury Department, Washington, D.C.

*Permit.* A formal written authorization of the Secretary of the Treasury of Puerto Rico.

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

*Proof gallon.* A gallon of liquid 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.

*Red strip stamp.* The stamp prescribed under authority of section 5205 (a)(2), I.R.C.

*Region.* A Bureau of Alcohol, Tobacco and Firearms Region.

*Regional regulatory administrator.* The principal ATF regional official responsible for administering regulations in this part.

*Revenue Agent.* Any duly authorized Commonwealth Internal Revenue Agent of the Department of the Treasury of Puerto Rico.

*Secretary.* The Secretary of the Treasury of Puerto Rico.

*Secretary or his delegate.* The Secretary or any officer or employee of the Department of the Treasury of Puerto Rico duly authorized by the Secretary to perform the function mentioned or described in this part.

*Taxpaid.* As used in this part with respect to liquors or articles of Puerto Rican manufacture, includes liquors or articles on which the tax was computed but with respect to which payment



was deferred under the provisions of Subpart E of this part.

*United States.* The States and the District of Columbia.

*U.S.C.* The United States Code.

*United States Internal Revenue Service office.* The United States Internal Revenue Service office in Puerto Rico operating under the direction of the Director of the Office of International Operations, Internal Revenue Service, Treasury Department, Washington, D.C.

*Virgin Islands regulations.* Regulations issued or adopted by the Governor of the Virgin Islands, or his duly authorized agents, with the concurrence of the Secretary of the Treasury of the United States, or his delegate, under the provisions of section 5314, I.R.C., as amended, and § 250.201a.

*Wine.* Still wine, vermouth, or other aperitif wine, imitation, substandard, or artificial wine, compounds designated as wine, flavored or sweetened wine, champagne or sparkling wine, and artificially carbonated wine, containing not over 24 percent of alcohol by volume.

## PART 251—IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

### Subpart B—Definitions

#### § 251.11 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.

*ATF Officer.* An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

*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.

*CFR.* The Code of Federal Regulations.

*Class 8 Customs bonded warehouse.* A class 8 customs bonded warehouse established under the provisions of Customs Regulations (19 CFR Ch. I).

*Customs officer.* Any officer of the Customs Service or any commissioned,

warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.

*Director.* The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

*Director of the service center.* A director of an internal revenue service center.

*Distilled spirits or spirits.* That substance known as ethyl alcohol, ethanol, or spirits of wine, and all mixtures or dilutions thereof, from whatever source or by whatever process produced, including alcohol, whisky, brandy, gin, rum, and vodka, but not including wine as defined in this subpart.

*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.

*District director of customs.* The district director of customs at a headquarters port of the district (except the district of New York, N.Y.); the area directors of customs in the district of New York, N.Y.; and the port director at a port not designated as a headquarters port.

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

*Importer.* Any person who imports distilled spirits, wines, or beer into the United States.

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

*Liquor bottle.* A bottle made of glass or earthenware, or of other suitable material approved by the Director, Alcohol, Tobacco and Firearms Division, designed or intended for use as a container for distilled spirits for sale for beverage purposes.

*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 of liquid 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.

*Red strip stamps.* The stamps prescribed under authority of section 5205(a)(2), I.R.C.

*Region.* A Bureau of Alcohol, Tobacco and Firearms Region.

*Regional regulatory administrator.* The principal ATF regional official re-

sponsible for administering regulations in this part.

*United States.* "United States" includes only the States and the District of Columbia.

*U.S.C.* The United States Code.

*Wine.* (a) Still wine, including vermouth or other aperitif wine, artificial or imitation wines or compounds sold as still wines, champagne or sparkling wine, and artificially carbonated wine, and (b) flavored or sweetened fortified or unfortified wines, by whatever name sold or offered for sale, containing not over 24 percent alcohol by volume.

## PART 252—EXPORTATION OF LIQUORS

### 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.

*ATF Officer.* An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

*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 untaxed 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.

*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 bonded warehouse.* A customs bonded warehouse, class 2, 3, or 8, established under the provisions of Customs Regulations (19 CFR Ch. I).



**Customs officer.** Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.

**Delegate.** Any officer, employee, or agency of the Department of the Treasury authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, Washington, D.C.

**District director of customs.** The district director of customs at a headquarters port of the district (except the district of New York, N.Y.), the area directors of customs in the district of New York, N.Y., and the port director at a port not designated as a headquarters port.

**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 and shall include shipments to any possession of the United States. 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 or in a possession of the United States. For the purposes of this part, shipments to the Commonwealth of Puerto Rico, to the ter-

ritories of the Virgin Islands, American Samoa and Guam, and to the Panama Canal Zone shall also be treated as exportations.

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

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

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

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

**Liter.** A metric unit of capacity equal to 1,000 cubic centimeters of alcoholic beverage, and equivalent to 33.814 fluid ounces. A liter is divided into 1,000 milliliters. Milliliter or milliliters may be abbreviated as "ml".

**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, or manufacturing bonded warehouse, 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.** A bureau of Alcohol, Tobacco and Firearms Region.

**Regional regulatory administrator.** The principal ATF regional official responsible for administering regulations in this part.

**Secretary.** The Secretary of the Treasury or his delegate.

**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.

## PART 270—MANUFACTURE OF CIGARS AND CIGARETTES

### Subpart B—Definitions

#### § 270.11 Meaning of terms.

When used in this part, and in forms prescribed under this part, the following terms shall have the meanings given in this section, unless the context clearly indicates otherwise. Words in the plural form shall include the singular, and vice versa, and words indicating the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not listed which are in the same general class.

**Assistant Director (Regulatory Enforcement).** The Assistant Director for regulatory enforcement activities in the Bureau of Alcohol, Tobacco and Firearms, who is responsible to, and functions under the direction and supervision of, the Director.

**ATF officer.** An officer of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

**CFR.** The Code of Federal Regulations.

**Cigar.** Any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of subparagraph (2) of the definition for cigarette.)

**Cigarette.** (1) Any roll of tobacco wrapped in paper or in any substance not containing tobacco, and

(2) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (1).

**Determined or determination.** When used with respect to the tax on cigars and cigarettes, determined or determination means that the quantity and kind (small cigars, large cigars, small



cigarettes, large cigarettes) of cigars and cigarettes and wholesale price of large cigars to be removed subject to tax have been established as prescribed by this part so that the tax payable with respect thereto may be calculated.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C.

**District Director.** A district director of internal revenue.

**Export warehouse.** A bonded internal revenue warehouse for the storage of cigars, cigarettes, and cigarette papers and tubes, upon which the internal revenue tax has not been paid, for subsequent shipment to a foreign country, Puerto Rico, The Virgin Islands, or a possession of the United States, or for consumption beyond the jurisdiction of the internal revenue laws of the United States.

**Export warehouse proprietor.** Any person who operates an export warehouse.

**Factory.** The premises of a manufacturer of tobacco products as described in his permit issued under Chapter 52, I.R.C.

**In bond.** The status of cigars, cigarettes, and cigarette papers and tubes, which come within the coverage of a bond securing the payment of internal revenue taxes imposed by section 5701 or section 7652, I.R.C., and in respect to which such taxes have not been determined as provided by regulations in this chapter, including (a) such articles in a factory, (b) such articles removed, transferred, or released, pursuant to section 5704, I.R.C., and with respect to which relief from the tax liability has not occurred, and (c) such articles on which the tax has been determined, or with respect to which relief from the tax liability has occurred, which have been returned to the coverage of a bond.

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

**Large cigarettes.** Cigarettes weighing more than three pounds per thousand.

**Large cigars.** Cigars weighing more than three pounds per thousand.

**Manufacturer of tobacco products.** Any person who manufactures cigars or cigarettes, except that such term shall not include (a) a person who produces cigars or cigarettes solely for his own personal consumption or use; or (b) a proprietor of a customs bonded manufacturing warehouse with respect to the operation of such warehouse.

**Package.** The container in which cigars or cigarettes are put up by the manufacturer and offered for sale or delivery to the consumer.

**Permit number.** The combination of (1) the letters indicating the kind of permit, (2) the identifying number, and (3) the name or abbreviation of the State (or the District of Columbia)

in which the factory is located, as assigned to the permit by the assistant regional commissioner; for example, "TP-999-Utah".

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

**Region.** A Bureau of Alcohol, Tobacco and Firearms Region.

**Regional regulatory administrator.** The principal regional official responsible for administering regulations in this part.

**Removal or remove.** The removal of cigars or cigarettes from the factory or release from customs custody, including the smuggling or other unlawful importation of such articles into the United States.

**Service center director.** A director of an internal revenue service center.

**Small cigarettes.** Cigarettes weighing not more than three pounds per thousand.

**Small cigars.** Cigars weighing not more than three pounds per thousand.

**This chapter.** Chapter I, Title 26, Code of Federal Regulations.

**Tobacco products.** Cigars and cigarettes. The term does not include smoking tobacco, chewing tobacco, or snuff.

**U.S.C.** The United States Code.

**Wholesale price.** The manufacturer's or importer's suggested delivered price at which the cigars are to be sold to retailers, inclusive of the tax imposed by 26 U.S.C. chapter 52 or section 7652, but exclusive of any State or local taxes imposed on cigars as a commodity, and before any trade, cash, or other discounts, or any promotion, advertising, display, or similar allowances. Where the manufacturer's or importer's suggested delivered price to retailers is not adequately supported by bona fide arm's length sales, or where the manufacturer or importer has no suggested delivered price to retailers, the wholesale price shall be the price for which cigars of comparable retail price are sold to retailers in the ordinary course of trade as determined by the Assistant Director (Regulatory Enforcement), as provided in § 270.22(1).

## PART 275—IMPORTATION OF CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES

### Subpart B—Definitions

#### § 275.11 Meaning of terms.

When used in this part and in forms prescribed under this part, the following terms shall have the meanings given in this section, unless the context clearly indicates otherwise. Words in the plural form shall include the singular, and vice versa, and words indicating the masculine gender shall include the feminine. The terms "includes" and "including" do not ex-

clude things not listed which are in the same general class.

**Assistant Director (Regulatory Enforcement).** The Assistant Director for regulatory enforcement activities in the Bureau of Alcohol, Tobacco and Firearms, who is responsible to, and functions under the direction and supervision of, the Director.

**ATF officer.** An officer of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

**Business day.** Any day, other than a Saturday, Sunday, or a legal holiday. (The term legal holiday includes all holidays in the District of Columbia and, in the case of bonded manufacturers in Puerto Rico, all legal holidays in the Commonwealth of Puerto Rico.)

**Bonded manufacturer.** A manufacturer of cigars or cigarettes in Puerto Rico who has an approved bond, in accordance with the provisions of this part, authorizing him to defer the payment in Puerto Rico of the internal revenue tax imposed on such products by section 7652(a), I.R.C., as provided in this part.

**CFR.** The Code of Federal Regulations.

**Chief, Puerto Rico Operations.** The primary representative in Puerto Rico of the Bureau of Alcohol, Tobacco and Firearms.

**Cigar.** Any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of subparagraph (2) of the definition for cigarette).

**Cigarette.** (1) Any roll of tobacco wrapped in paper or in any substance not containing tobacco, and

(2) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (1) of this paragraph.

**Cigarette paper.** Paper, or any other material except tobacco, prepared for use as a cigarette wrapper.

**Cigarette papers.** Taxable books or sets of cigarette papers, i.e., books or sets of cigarette papers containing more than 25 papers each.

**Cigarette tube.** Cigarette paper made into a hollow cylinder for use in making cigarettes.

**Computation or computed.** When used with respect to the tax on cigars and cigarettes of Puerto Rican manufacture, computation or computed shall mean that the bonded manufacturer has ascertained the quantity and kind (small cigars, large cigars, small cigarettes, large cigarettes) of cigars and cigarettes and wholesale price of large cigars being shipped to the



United States; that the payment, in Puerto Rico, of the tax on such products is to be deferred under Subpart G of this part; that the tax imposed on such products by 26 U.S.C. 7652(a) has been calculated, that the bonded manufacturer has executed an agreement to pay the internal revenue tax which will become due with respect to such products, as provided in this part; and that an ATF officer has verified and executed a certification of such calculation.

**Determined or determination.** When used with respect to the internal revenue tax on cigars, cigarettes, and cigarette papers and tubes, determined or determination shall mean that the quantity and kind (small cigars, large cigars, small cigarettes, large cigarettes) of cigars and cigarettes and wholesale price of large cigars, or the number of books or sets of cigarette papers of each different numerical content, or the number of cigarette tubes, to be removed subject to internal revenue tax, has been established as prescribed by this part so that the internal revenue tax payable with respect thereto may be calculated.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

**District director.** A district director of internal revenue.

**District director of customs.** The district director of customs at the headquarters port of the district (except the district of New York, N.Y.); the area directors of customs in the district of New York, N.Y.; and the port director at a port not designated as a headquarters port.

**Factory.** The premises of a manufacturer of cigars, cigarettes, of cigarette papers or tubes in which he carries on such business.

**Importer.** Any person in the United States to whom non-tax-paid cigars, cigarettes, or cigarette papers or tubes manufactured in a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States are shipped or consigned; any person who removes cigars for sale or consumption in the United States from a customs bonded manufacturing warehouse; and any person who smuggles or otherwise unlawfully brings cigars, cigarettes, or cigarette papers or tubes into the United States.

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

**Large cigarettes.** Cigarettes weighing more than three pounds per thousand.

**Large cigars.** Cigars weighing more than three pounds per thousand.

**Manufacturer of cigarette papers and tubes.** Any person who makes up cigarette paper into books or sets containing more than 25 papers each, or into tubes, except for his own personal use or consumption.

**Manufacturer of tobacco products.** Any person who manufactures cigars or cigarettes, except that such term

shall not include (a) a person who produces cigars or cigarettes solely for his own personal consumption or use; or (b) a proprietor of a customs bonded manufacturing warehouse with respect to the operation of such warehouse.

**Officer-in-Charge.** The principal revenue officer in Puerto Rico charged with the duty of collecting internal revenue taxes, in Puerto Rico, under the jurisdiction of the Director of the Office of International Operations, Internal Revenue Service, Treasury Department, Washington, D.C.

**Package.** The container in which cigars, cigarettes, or cigarette papers or tubes are put up by the manufacturer or the importer and offered for sale or delivery to the consumer.

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

**Region.** A Bureau of Alcohol, Tobacco and Firearms Region.

**Regional regulatory administrator.** The principal regional official responsible for administering regulations in this part.

**Removal or remove.** The removal of cigars, cigarettes, or cigarette papers or tubes from the factory or release from customs custody, including the smuggling or other unlawful importation of such articles into the United States.

**Small cigarettes.** Cigarettes weighing not more than three pounds per thousand.

**Small cigars.** Cigars weighing not more than three pounds per thousand.

**This chapter.** Chapter I, Title 27, Code of Federal Regulations.

**Tobacco products.** Cigars and cigarettes. The term does not include smoking tobacco, chewing tobacco, or snuff.

**TSUSA.** The Tariff Schedules of the United States Annotated, as published by the United States International Trade Commission.

**United States.** When used in a geographical sense shall include only the States and the District of Columbia.

**U.S.C.** The United States Code.

**Wholesale price.** The manufacturer's or importer's suggested delivered price at which the cigars are to be sold to retailers, inclusive of the tax imposed by 26 U.S.C. chapter 52 or section 7652, but exclusive of any State or local taxes imposed on cigars as a commodity, and before any trade, cash, or other discounts, or any promotion, advertising, display, or similar allowances. Where the manufacturer's or importer's suggested delivered price to retailers is not adequately supported by bona fide arm's length sales, or where the manufacturer or importer has no suggested delivered price to retailers, the wholesale price shall be

the price for which cigars of comparable retail price are sold to retailers in the ordinary course of trade as determined by the Assistant Director (Regulatory Enforcement) under § 275.39(i).

## PART 285—MANUFACTURE OF CIGARETTE PAPERS AND TUBES

### Subpart B—Definitions

#### § 285.11 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 meanings 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.

**ATF Officer.** An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

**Cigarette.** (1) Any roll of tobacco wrapped in paper or in any substance not containing tobacco, and

(2) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filter, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (1) of this paragraph.

**Cigarette paper.** Paper, or any other material except tobacco, prepared for use as a cigarette wrapper.

**Cigarette papers.** Taxable books or sets of cigarette papers, i.e., books or sets of cigarette papers containing more than 25 papers each.

**Cigarette tube.** Cigarette paper made into a hollow cylinder for use in making cigarettes.

**Determined or determination.** When used with respect to the tax on cigarette papers and tubes, shall mean that the number of books or sets of cigarette papers of each different numerical content or the number of cigarette tubes to be removed subject to tax has been established as prescribed by this chapter so that the tax payable with respect thereto may be calculated.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

**District director.** A district director of internal revenue.

**Export warehouse.** A bonded internal revenue warehouse for the storage of cigars, cigarettes, and cigarette papers and tubes upon which the internal revenue tax has not been paid, for subsequent shipment to a foreign country,



Puerto Rico, the Virgin Islands, or a possession of the United States, or for consumption beyond the jurisdiction of the internal revenue laws of the United States.

**Export warehouse proprietor.** Any person who operates an export warehouse.

**Factory.** The premises of a manufacturer of cigarette papers and tubes in which he carries on such business.

**In bond.** The status of cigarette papers and tubes which come within the coverage of a bond securing the payment of internal revenue taxes imposed by section 5701 or section 7652, I.R.C., and in respect to which such taxes have not been determined as provided by regulations in this chapter, including (a) such articles in a factory, (b) such articles removed, transferred, or released, pursuant to section 5704, I.R.C., and with respect to which relief from the tax liability has not occurred, and (c) such articles on which the tax has been determined, or with respect to which relief from the tax liability has occurred, which have been returned to the coverage of a bond.

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

**Manufacturer of cigarette papers and tubes.** Any person who makes up cigarette paper into books or sets containing more than 25 papers each, or into tubes, except for his own personal use or consumption.

**Manufacturer of tobacco products.** Any person who manufactures cigars or cigarettes, except that such term shall not include (a) a person who produces cigars or cigarettes, solely for his own personal consumption or use; or (b) a proprietor of a customs bonded manufacturing warehouse with respect to the operation of such warehouse.

**Package.** The container in which cigarette papers or tubes are put up and in which or directly from which, such papers or tubes are offered for sale or delivery to the consumer.

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

**Region.** A bureau of Alcohol, Tobacco and Firearms Region.

**Regional regulatory administrator.** The principal ATF regional official responsible for administering regulations in this part.

**Removal or remove.** The removal of cigarette papers or tubes from the factory or release from customs custody, including the smuggling or other unlawful importation of such articles into the United States.

**Service Center Director.** A director of an internal revenue service center.

**United States.** When used in a geographical sense shall include only the States and the District of Columbia.

**U.S.C.** The United States Code.

## PART 290—EXPORTATION OF CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, OR WITH DRAWDRAWBACK OF TAX

### Subpart B—Definitions

#### § 290.11 Meaning of terms.

When used in this part and in forms prescribed under this part, the following terms shall have the meanings given in this section, unless the context clearly indicates otherwise. Words in the plural form shall include the singular, and vice versa, and words indicating the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not listed which are in the same general class.

**Assistant Director (Regulatory Enforcement).** The Assistant Director for regulatory enforcement activities in the Bureau of Alcohol, Tobacco and Firearms, who is responsible to, and functions under the direction and supervision of, the Director.

**ATF officer.** An officer of the Bureau of Alcohol, Tobacco and Firearms (ATF), authorized to perform any function relating to the administration or enforcement of this part.

**Cigar.** Any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco which is a cigarette within the definition of "cigarette" given in this section).

**Cigarette.** (a) Any roll of tobacco wrapped in paper or in any substance not containing tobacco, and

(b) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (a) of this section.

**Cigarette paper.** Paper, or other material except tobacco, prepared for use as a cigarette wrapper.

**Cigarette papers.** Taxable books or sets of cigarette papers.

**Cigarette tube.** Cigarette paper made into a hollow cylinder for use in making cigarettes.

**Customs warehouse.** A customs bonded manufacturing warehouse, class 6, where cigars are manufactured of imported tobacco.

**Director.** The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

**District director of customs.** The district director of customs at a headquarters port of the district (except the district of New York, N.Y.); the area directors of customs in the district of New York, N.Y.; and the port director at a port not designated as a headquarters port.

**Exportation or export.** A severance of cigars, cigarettes, or cigarette papers or tubes 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. For the purposes of this part, shipment from the United States to Puerto Rico, the Virgin Islands, or a possession of the United States, shall be deemed exportation, as will the clearance from the United States of cigars, cigarettes, and cigarette papers and tubes for consumption beyond the jurisdiction of the internal revenue laws of the United States, i.e., beyond the 3-mile limit or international boundary, as the case may be.

**Export warehouse.** A bonded internal revenue warehouse for the storage of cigars, cigarettes, and cigarette papers and tubes, upon which the internal revenue tax has not been paid, for subsequent shipment to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, or for consumption beyond the jurisdiction of the internal revenue laws of the United States.

**Export warehouse proprietor.** Any person who operates an export warehouse.

**Factory.** The premises of a manufacturer of cigars, cigarettes, or cigarette papers and tubes in which he carries on such business.

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

**In bond.** The status of cigars, cigarettes, and cigarette papers and tubes, which come within the coverage of a bond securing the payment of internal revenue taxes imposed by 26 U.S.C. 5701 or 7652, and in respect to which such taxes have not been determined as provided by regulations in this chapter, including (a) Such articles in a factory or an export warehouse, (b) Such articles removed, transferred, or released, pursuant to 26 U.S.C. 5704, and with respect to which relief from the tax liability has not occurred, and (c) Such articles on which the tax has been determined, or with respect to which relief from the tax liability has occurred, which have been returned to the coverage of a bond.

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

**Manufacturer of cigarette papers and tubes.** Any person who makes up cigarette paper into books or sets containing more than 25 papers each, or into tubes, except for his own personal use or consumption.

**Manufacturer of tobacco products.** Any person who manufactures cigars or cigarettes, except that such term shall not include (a) A person who produces cigars or cigarettes solely for his own personal consumption or use;



or (b) A proprietor of a customs bonded manufacturing warehouse with respect to the operation of such warehouse.

**Package.** The container in which cigars, cigarettes, or cigarette papers or tubes are put up by the manufacturer and offered for sale or delivery to the consumer.

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

**Region.** A Bureau of Alcohol, Tobacco and Firearms Region.

**Regional regulatory administrator.** The principal regional official responsible for administering regulations in this part.

**Removal or remove.** The removal of cigars, cigarettes, or cigarette papers or tubes from either the factory or the export warehouse covered by the bond of the manufacturer or proprietor.

**State.** "State" shall, for the purposes of this part, be construed to include the District of Columbia.

**Tobacco products.** Cigars and cigarettes. The term does not include smoking tobacco, chewing tobacco, or snuff.

**United States.** "United States" when used in a geographical sense shall include only the States and the District of Columbia.

**U.S.C.** The United States Code.

**Wholesale price.** The manufacturer's or importer's suggested delivered price at which the cigars are to be sold to retailers, inclusive of the tax imposed by 26 U.S.C. chapter 52 or section 7652 but exclusive of any State or local taxes imposed on cigars as a commodity, and before any trade, cash, or other discounts, or any promotion, advertising, display, or similar allowances. Where the manufacturer's or importer's suggested delivered price to retailers is not adequately supported by bona fide arm's length sales, or where the manufacturer or importer has no suggested delivered price to retailers, the wholesale price shall be the price for which cigars of comparable retail price are sold to retailers in the ordinary course of trade as determined by the Assistant Director (Regulatory Enforcement).

**Zone operator.** The person to whom 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.

## PART 295—REMOVAL OF CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, FOR USE OF THE UNITED STATES

### Subpart B—Definitions

#### § 295.11 Meaning of terms.

When used in this part and in forms prescribed under this part, the following

terms shall have the meanings given in this section, unless the context clearly indicates otherwise. Words in the plural form shall include the singular, and vice versa, and words indicating the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not listed which are in the same general class.

**Armed forces.** The Army, Navy (including the Marine Corps), Air Force, and Coast Guard.

**Assistant Director (Regulatory Enforcement).** The Assistant Director for regulatory enforcement activities in the Bureau of Alcohol, Tobacco and Firearms, who is responsible to, and functions under the direction and supervision of, the Director.

**ATF officer.** An officer of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

**Charge of the United States.** A patient in a hospital or similar institution, or a Federal prisoner, if the hospital, institution, or prison is operated by a Federal agency and the support or care of such person results in a charge on, or an expense to, the United States Government.

**Cigar.** Any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of subparagraph (2) of the definition for cigarette).

**Cigarette.** (1) Any roll of tobacco wrapped in paper or in any substance not containing tobacco, and

(2) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (1) of this paragraph.

**Cigarette paper.** Paper, or any other material except tobacco, prepared for use as a cigarette wrapper.

**Cigarette papers.** Taxable books or sets of cigarette papers, i.e., books or sets of cigarette papers containing more than 25 papers each.

**Cigarette tube.** Cigarette paper made into a hollow cylinder for use in making cigarettes.

**District director.** A district director of internal revenue.

**Factory.** The premises of a manufacturer of cigars, cigarettes, or cigarette papers and tubes in which he carries on such business.

**Federal agency.** A department or agency of the United States Government, including the American National Red Cross, and the U.S. Soldiers Home, Washington, D.C.

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

**Large cigarettes.** Cigarettes weighing more than three pounds per thousand.

**Large cigars.** Cigars weighing more than three pounds per thousand.

**Manufacturer of cigarette papers and tubes.** Any person who makes up cigarette paper into books or sets containing more than 25 papers each, or into tubes, except for his own personal use or consumption.

**Manufacturer of tobacco products.** Any person who manufactures cigars or cigarettes, except that such term shall not include (a) a person who produces cigars or cigarettes, solely for his own personal consumption or use; or (b) a proprietor of a customs bonded manufacturing warehouse with respect to the operation of such warehouse.

**Package.** The container in which cigars, cigarettes, or cigarette papers or tubes are put up by the manufacturer and offered for sale or delivery to the consumer.

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

**Region.** A Bureau of Alcohol, Tobacco and Firearms Region.

**Regional regulatory administrator.** The principal regional official responsible for administering regulations in this part.

**Removal or remove.** The removal of cigars, cigarettes, or cigarette papers or tubes from the factory.

**Small cigarettes.** Cigarettes weighing not more than three pounds per thousand.

**Small cigars.** Cigars weighing not more than three pounds per thousand.

**This chapter.** Chapter I, Title 26, Code of Federal Regulations.

**Tobacco products.** Cigars and cigarettes. The term does not include smoking tobacco, chewing tobacco, or snuff.

**United States.** When used in a geographical sense shall include only the States and the District of Columbia.

**U.S.C.** The United States Code.

**Wholesale price.** The manufacturer's or importer's suggested delivered price at which the cigars are to be sold to retailers, inclusive of the tax imposed by 26 U.S.C. chapter 52 or section 7652, but exclusive of any State or local taxes imposed on cigars as a commodity, and before any trade, cash, or other discounts or any promotion, advertising, display, or similar allowances. Where the manufacturer's or importer's suggested delivered price to retailers is not adequately supported by bona fide arm's length sales, or where the manufacturer or importer has no suggested delivered price to retailers, the wholesale price shall be the price for which cigars of comparable retail price are sold to retailers in the ordinary course of trade as determined by the Assistant Director (Regulatory Enforcement).

FR Doc. 78-8370 Filed 3-30-78; 8:45 am



[4510-23]

## Title 29—Labor

## CHAPTER II—OFFICE OF THE ASSISTANT SECRETARY FOR LABOR-MANAGEMENT RELATIONS, DEPARTMENT OF LABOR

## PART 215—GUIDELINES, SECTION 13(c), URBAN MASS TRANSPORTATION ACT OF 1964, AS AMENDED

## Procedures Followed By Secretary For Determining That Fair And Equitable Arrangements Have Been Made For Protection Of Employees Affected By Assistance Under Urban Mass Transportation Act.

AGENCY: Department of Labor.

ACTION: Final Statement of Policy and Procedures.

**SUMMARY:** The Urban Mass Transportation Act provides, in general, that it shall be a condition of any federal financial assistance by the Department of Transportation to states and local public bodies in financing mass transportation systems, that fair and equitable arrangements must be made, as determined by the Secretary of Labor, to protect the interests of employees affected by assistance. In conjunction with the Secretary of Labor's role in making such determinations, we are adding Part 215 to provide information concerning the Department of Labor's administrative procedure in processing applications for assistance under the Urban Mass Transportation Act, and certification by the Secretary of Labor of acceptable protective arrangements.

**EFFECTIVE DATE:** This part becomes effective May 1, 1978.

## FOR FURTHER INFORMATION CONTACT:

Lary F. Yud, Division of Employee Protections, Labor-Management Services Administration, U.S. Department of Labor, Room N-5641, 200 Constitution Avenue NW., Washington, D.C. 20210; phone number 202-523-6495.

**SUPPLEMENTARY INFORMATION:** On January 18, 1977 there was published in the FEDERAL REGISTER (42 FR 3319) a notice of proposed guidelines with an amendment to 29 CFR Chapter II by adding a new Part 215. Corrections to the proposed guidelines were published on January 25, 1977 (42 FR 4492). All comments on the proposed guidelines were given due consideration.

## DISCUSSION OF MAJOR COMMENTS

During the review of the comments received, certain key issues emerged and the decisions thereon and modifications, if any, to the proposed guidelines were as follows:

## DEFINITIONS

A number of respondents recommended that definitions of such terms as "employees" be included in the guidelines. The purpose of the guidelines is to provide information concerning the Department of Labor's procedures in processing UMTA applications for employee protection purposes. As such, the Department has avoided to the extent possible including substantive provisions.

## DOL REFERRAL PROCEDURE

A number of comments addressed the Department's practice of referring applications to the international offices of unions representing affected employees in individual project situations. It was proposed that the guidelines provide for referral of applications to local unions. It is a common practice of labor organizations in the transit industry to provide for centralized handling of employee protection arrangements at the international union level or by organizations which are affiliations of unions. Too, the constitutions of some unions require international approval of agreements. The Department of Labor believes that coordination of employee protection arrangements through international unions and affiliations of such unions greatly facilitates the orderly and expeditious processing of UMTA applications. No change has been made from the proposed version in the final guidelines.

## PROTECTIVE ARRANGEMENTS WHEN STATE LAW PROHIBITS BARGAINING

Questions were raised concerning the effect of the procedure requiring the "negotiation" of protective arrangements in states where bargaining is prohibited for public employees. A number of respondents stated that under existing state law, they are unable to "bargain" protective terms and conditions and thus they feel they may be unable legally to comply with our guidelines. Although only a small number of applicants fall into this situation, we recognize potential conflict here. Special procedures have been followed in the past in these cases, such as the joint development of terms and conditions by the parties which are then incorporated into a resolution adopted by the appropriate public body. The intent of our guidelines is not to foreclose resort to such special procedures where they are necessary to satisfy the Federal statute in a manner that does not violate State

or local law. A new paragraph has been added to § 215.3 to accommodate this practice.

## TIME LIMITS ON NEGOTIATIONS

The single provision which received the most comments was § 215.3(d), dealing with the setting of time limitations on negotiations by the Secretary of Labor. Comments received from applicants stressed the need to establish certain fixed time limits by which certification action would be final. Comments from union organizations stressed the strangulation such time limits would place on the negotiating process. The Department of Labor recognizes that the negotiation of employee protective arrangements can seem interminable if there is no effective procedure pressing for their conclusion or alternative action by the Secretary of Labor. At the same time, we are very fearful that a fixed time limit automatically applicable to every case would constrict negotiations and replace a procedure which emphasizes voluntary action by the parties with one dominated by government decision making. This becomes all the more troublesome with the realization that the establishment of fixed time limits would require the accompanying adoption of formal review standards which would delve into such questions as whether the parties had made a "good faith" attempt to reach an agreement during the time allotted. Upon review, and in the face of such concerns and all available evidence we have concluded that fixed time limits should not be adopted. The record of recent case handling does not support the need for a drastic change in current procedures. Therefore, § 215.3(d) of the guidelines as proposed has been rewritten.

As rewritten, § 215.3(d) provides for the establishment of time schedules in appropriate cases. Under this procedure, the Department of Labor will solicit from the Department of Transportation, at the time individual grant applications are referred for certification, information concerning the anticipated funding approval date for the subject project. As part of its initial review of an application, the Department of Labor will determine whether a time schedule should be established for the processing of the application for employee protective arrangement certification purposes. In situations where no action on a project is predictable by the Department of Transportation, it is expected that no specific time schedule will be set. However, when the Department of Transportation advises that it seeks to approve a project by a certain date and absent special circumstances, the Department of Labor will establish a time schedule which to the extent possible conforms to the projected grant



approval date. That time schedule will be included in the Department of Labor's referral letters to the parties or subsequent written communications. The parties will thereby be placed on notice of the Department of Labor's target date for the certification of the project. Prior to that date the Department of Labor will contact the parties to determine what progress is being made and to determine if the Department should become actively involved in the negotiations.

The time schedule will be continually subject to review and modification based on exigencies that arise during the processing. The parties can expect that the negotiating process must be pursued expeditiously and in good faith. If progress toward an agreement becomes stalled or irreconcilable issues are confronted, the Department of Labor will incorporate into the time schedule dates by which the Secretary of Labor will take alternative action, including action to certify or to deny certification of the application.

Section 215.3(f) has been rewritten to make it consistent with § 215.3(d) as rewritten.

#### AMENDATORY APPLICATIONS

The section of the proposed guidelines dealing with the processing of amendatory applications has been retained without modification. A number of comments were addressed to this section, including one which would have provided interested parties the opportunity to object to the Secretary of Labor's decision prior to its final implementation. We believe that our experience enables us to make the determinations called for in this section without review prior to issuance. The great majority of such cases involve straight-forward factors for review such as cost-overruns resulting from bids higher than anticipated. To open up such determinations to outside review is unnecessary and cumbersome. As we do now, all parties will be notified that we have made these decisions and furnished with copies thereof and the relevant material upon which those decisions were based.

#### CERTIFICATIONS OF RECURRING OPERATING GRANTS

In addition to the section of the guidelines on time limits, the section entitled "Recertifications based on existing agreements" received a great deal of attention in the comments. The purpose of this section as originally drafted was to provide some stability and longevity to protective arrangements developed for projects which were recurring in nature. Certain categories of such projects were listed and the proposed procedure would have had the Secretary of Labor reapply protective arrangements which existed in each category

unless it was determined that other action was more appropriate. A number of comments received raised questions about the specific categories of recurring grants set forth in the proposed guidelines. The existence of a "normal equipment replacement or maintenance cycle" was questioned. During our review it became obvious that the categorization of projects into easily usable groups was fraught with difficulty and conflict.

In an effort to determine the necessity for this proposed procedure, the Department of Labor has reviewed all certification activity for the twelve-month period, January through December, 1977. During that period of time, the Department of Labor issued 748 certification actions. Ninety-nine of those certifications involved non-union situations, where the Department sets forth in its letter of certification all protective terms and conditions that will apply. Another 147 cases involved situations where, after review, the Department on its own initiative determined that a previous certification could be applied to revised or amendatory applications. Another 222 actions involved utilization of the so-called model agreement for operating assistance grants. Of the remaining 280 certification actions, 172 were based on the voluntary agreement of involved parties to apply the terms and conditions of previously developed protective agreements to new projects (referred to as "piggybacking"). That leaves 108 cases, less than 15 percent, in which new agreements were developed. Included in these cases were many specialized projects, including some involving paratransit and cases under the Section 17 grant program.

Further in comments directed to the recurring grant section, a number of respondents recommended inclusion of operating assistance grants as a recurring grant category. Such grants are obviously recurring and further constitute a special case because of the existence of the so-called model agreement for application to operating assistance grants. Moreover, the model agreement has served as the basis for some 450 certification actions on operating assistance applications over the 24 month period from January, 1976 through December, 1977. In view of the statistics cited above and the comments, which provide no support for any major change in current procedures, and the many very valid questions of interpretation raised about the recurring grant categories in the proposed guidelines, this section has been rewritten. As rewritten, the specific categories of recurring grants have been deleted as well as the provision allowing for "other categories to be determined by the Secretary" and the special procedure adopted has been limited to general purpose operating assistance grants.

#### NEGATIVE DECLARATION

Four respondents recommended adoption of the so-called "negative declaration" procedure for general purpose operating assistance grants. Under this proposal, the applicant would merely warrant that the project would have no adverse impact on employees. This would be in lieu of specific protective terms and conditions. A savings clause would be included in the event of unanticipated effects. The Department of Labor has previously reviewed this proposed procedure in detail and in its view it is contrary to the statute.

Accordingly, 29 CFR Chapter II is amended by adding a new Part 215 to read as follows:

- Sec.
- 215.1 Purpose.
- 215.2 General.
- 215.3 Employees Represented by a Labor Organization.
- 215.4 Employees Not Represented by a Labor Organization.
- 215.5 Processing of Amendatory Applications.
- 215.6 Recurring Operating Grants and the Model Agreement.
- 215.7 Department of Labor contract.

AUTHORITY: Secretary's Order No. 11-72, May 12, 1972.

#### § 215.1 Purpose.

(a) The purpose of these guidelines is to provide information concerning the Department of Labor's administrative procedures in processing applications for assistance under the Urban Mass Transportation Act of 1964, as amended (hereinafter "the Act").

(b) Section 13(c) of the Act reads as follows:

It shall be a condition of any assistance under section 3 of this Act that fair and equitable arrangements are made, as determined by the Secretary of Labor, to protect the interests of employees affected by such assistance. Such protective arrangements shall include, without being limited to, such provisions as may be necessary for (1) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise; (2) the continuation of collective bargaining rights; (3) the protection of individual employees against a worsening of their positions with respect to their employment; (4) assurances of employment to employees of acquired mass transportation systems and priority of reemployment of employees terminated or laid off; and (5) paid training or retraining programs. Such arrangements shall include provisions protecting individual employees against a worsening of their positions with respect to their employment which shall in no event provide benefits less than those established pursuant to section 5(2)(f) of the Act of February 4, 1887 (24 Stat. 379), as amended. The contract for the granting of any such assistance shall specify the terms and conditions of the protective arrangements.



### § 215.2 General.

Upon receipt of copies of applications for Federal assistance subject to section 13(c), together with a request for the certification of employee protective arrangements from the Department of Transportation, the Department of Labor will process those applications, which may be in either preliminary or final form. To facilitate review, the section of the application dealing with labor and relocation should estimate the effects on mass transportation employees of urban mass transportation carriers of the contemplated Federal assistance including possible impact of the assistance upon existing collective bargaining agreements, employment rights, privileges and benefits (including pensions) and the continuation of collective bargaining rights. The application should identify the labor organization, if any, representing employees of urban mass transit carriers in the area of the proposed project and describe what steps, if any, have been taken to develop the required employee protections.

### § 215.3 Employees represented by a labor organization.

(a)(1) If affected employees are represented by a labor organization it is expected that protective arrangements shall be the product of negotiation, pursuant to these guidelines.

(2) In instances where states or political subdivisions are subject to legal restrictions on bargaining with employee organizations, the Department of Labor will utilize special procedures to satisfy the Federal statute in a manner which does not contravene state or local law. For example, employee protective terms and conditions, acceptable to both employee and applicant representatives, may be incorporated into a resolution adopted by the involved local government.

(b) Upon receipt of an application involving affected employees represented by a labor organization, the Department of Labor will refer a copy of the application to that organization and notify the applicant of referral.

(c) Following referral and notification under paragraph (b) of this section, and subject to the exceptions defined in §§ 215.5 and 215.6, parties will be expected to engage in good faith efforts to reach mutually acceptable protective arrangements through negotiation.

(d) As part of the Department of Labor's review of an application, a time schedule for case processing will be established by the Department of Labor where appropriate. Absent special circumstances, the time schedule will be established in cases where funding approval is anticipated and will, to the extent possible, conform to the Department of Transportation's

projected time frame for funding. In situations where no action on a project by a specific time is predictable by the Department of Transportation, it is expected that no time schedule will be set by the Department of Labor. Any time schedule established by the Department of Labor will be specified in its referral letters under § 215.3(b) or subsequent written communications to the parties. The parties are thereby placed on notice of the Department's target date for the certification of the project. It is expected that negotiations will be pursued expeditiously and in good faith. The Secretary will monitor progress of negotiations and in cases where negotiations break down or irreconcilable issues are present, the Department will incorporate into the time schedule dates by which the Secretary will take alternative action.

(e) The Secretary of Labor will review negotiated protective arrangements. If an arrangement meets the requirements of section 13(c), the Secretary will so certify to the Urban Mass Transportation Administrator. If the arrangement is not in conformity with the provisions of section 13(c), the Secretary may grant parties additional time to negotiate a satisfactory agreement, or he may set forth the provisions of the protective arrangement himself.

(f) If during the processing of an application the Secretary finds that the parties are unable to reach agreement, he will review the positions of the parties to determine appropriate action. Such action may include the Secretary's determination of the terms and conditions upon which he will base his certification or his refusal to certify for specified reasons.

### § 215.4 Employees not represented by a labor organization.

(a) The certification made by the Secretary will afford the same level of protection to those employees who are not represented by labor organizations.

(b) If there is no labor organization representing employees, the Secretary will set forth the protective terms and conditions in his letter of certification.

### § 215.5 Processing of amendatory applications.

When an application is supplemental to or revises or amends in immaterial respects an application for which the Department of Labor has already certified that fair and equitable arrangements have been made to protect the interests of mass transit employees affected by the subject project, and absent unusual circumstances, the Department of Labor will on its own initiative apply to the supplemental or other amendatory application the same terms and conditions as were certified for the subject project as origi-

nally constituted. The Department of Labor's processing of these applications will be expedited.

### § 215.6 Recurring Operating Grants and the Model Agreement.

(a) In instances where the Department of Labor receives general purposes operating assistance grant applications and the parties have previously endorsed the Model 13(c) agreement (referred to also as the "National Agreement"), the Department will serve notice to the subject parties that it will certify the project on the basis of the Model Agreement unless informed within two weeks from the issuance of our letter of notice that special circumstances are presented by the project which require changes in the Model Agreement or supplemental arrangements as applied to the particular project involved. In the event the Secretary determines that changes in the Model Agreement or supplemental arrangements are required, the Secretary will direct the parties to negotiate such arrangements in accordance with the case processing procedure described in § 215.3 hereof. If the Secretary determines that no special circumstances exist, he will so advise the parties and certify the project on the basis of the Model Agreement.

(b) The Model (or National) Agreement mentioned in paragraph (a) of this section refers to the agreement executed on July 23, 1975 by representatives of the American Public Transit Association and the Amalgamated Transit Union and Transport Workers Union of America and on July 31, 1975 by representatives of the Railway Labor Executives' Association, Brotherhood of Locomotive Engineers, Brotherhood of Railway and Airline Clerks and International Association of Machinists and Aerospace Workers. The agreement is intended to serve as a ready-made employee protective arrangement for adoption by local parties in specific operating assistance project situations. The Secretary has determined that this agreement provides fair and equitable arrangements to protect the interests of employees in general purpose operating assistance project situations and meets the requirements of Section 13(c).

### § 215.7 Department of Labor contact.

Questions concerning the subject matter covered by these guidelines should be addressed to the Division of Employee Protections, Labor-Management Services Administration, U.S. Department of Labor, Room N-5641, 200 Constitution Avenue NW., Washington, D.C. 20210; phone number 202-523-6495. (Secretary's Order No. 11-72, May 12, 1972.)



Signed at Washington, D.C., this 28th day of March, 1978.

FRANCIS X. BURKHARDT,  
Assistant Secretary for Labor-  
Management Relations.

[FR Doc. 78-8560 Filed 3-30-78; 8:45 am]

[4510-26]

**CHAPTER XVII—OCCUPATIONAL  
SAFETY AND HEALTH ADMINIS-  
TRATION, DEPARTMENT OF LABOR  
PART 1910—OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS**

**Occupational Exposure to Benzene:  
Corrections**

**AGENCY:** The Occupational Safety and Health Administration, Department of Labor.

**ACTION:** Final rule; corrections.

**SUMMARY:** This notice announces corrections to the permanent benzene standard which appeared in the *FEDERAL REGISTER* on February 10, 1978 (43 FR 5918).

**EFFECTIVE DATE:** March 31, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Gail Brinkerhoff, Office of Compliance Programs, OSHA, Third Street and Constitution Avenue NW., Room N3112, Washington, D.C., 20210, telephone 202-523-8034.

**SUPPLEMENTAL INFORMATION:** On February 10, 1978, an occupational safety and health standard for exposure to benzene, with an accompanying explanation, was published in the *FEDERAL REGISTER* (43 FR 5918), as 29 CFR 1910.1028. There were a number of typographical errors and inadvertent omissions in that document. It is, therefore, necessary that the benzene document be corrected as indicated below.

One of the more significant corrections is in the monitoring provisions of paragraph (e) of § 1910.1028. The preamble, which contains a statement of the reasons for monitoring requirements, explains (43 FR 5952) that redetermination of employee exposure must also take place after the cleanup of spills and the repair of leaks, ruptures or other breakdowns in order to ensure that proper corrective measures have been taken and employee exposures are not significantly increased. The language of the standard inadvertently allowed employers to redetermine exposures in such instances before repairs are made or before cleanup of spills and leaks. Accordingly, OSHA has corrected the language of the additional monitoring provision (paragraph (e)(4)) to make clear that

the redetermination of employee exposures in such instances is to be conducted after cleanup or repairs.

A correction of the preamble has been made to clarify OSHA's intent to exclude from the coverage of the benzene standard solid mixtures containing benzene. The preamble inadvertently stated (43 FR 5945) that the standard applies to solids which contain benzene. The only benzene mixtures referred to in the definition of benzene § 1910.1028 (b) are liquid mixtures. Thus the standard covers the solid form of benzene only when such solid is pure benzene.

Accordingly, FR Doc. 78-3417 is corrected as follows:

1. On page 5918, second column, first line "z" is corrected to "Z".
2. On page 5918, second column, the nineteenth line, "(c)" is corrected to "(d)".
3. On page 5918, third column, the eighth line of footnote 1 is corrected to read: "The designations "PC" and "PH" refer to posthearing".
4. On page 5919, second column, third full paragraph, second line, "Emergency" is corrected to "Emergency".
5. On page 5922, first column, second paragraph, the third line is corrected to read "in 1910 (PC 6). He observed a significant".
6. On page 5922, second column, the fifth line is corrected to add "in 1939" after the word "co-workers".
7. On page 5923, second column, first line, "commenting" is corrected to "commented".
8. On page 5923, second column, first full paragraph, the parenthesis in the fifth line is corrected to read: "(Dow/Ott-Ex. 154)".
9. On page 5924, third column, the tenth line, the word "on" is deleted.
10. On page 5924, third column, third full paragraph, the fourth line, "toxicity" is corrected to "depression".
11. On page 5924, third column, fifth full paragraph, the fifth and sixth lines are corrected to read "blood tests, with up to 25 years work experience for some and there has been".
12. On page 5925, first column, first full paragraph, the ninth line is corrected to delete "Tr. pp. 360-361".
13. On page 5925, first column, first full paragraph, the fourteenth line is corrected to add a period after the word "count", and the fifteenth line is corrected to read: "And it has been reported that Volkova observed a definite lowering of leukocyte phagocytic activity together with an increased morbidity".
14. On page 5925, second column, the heading "IV. Leukemia" is corrected to read "3. Leukemia".
15. On page 5925, second column, fifth line from the bottom "myeloid" is corrected to "myeloid".
16. On page 5926, second column, first full paragraph, the sixth line is

corrected to read "P.C. 33, pp. 50-51). However, Aksoy has".

17. On page 5926, second column, first full paragraph, second line from bottom, "vig" is corrected to "Vig".

18. On page 5926, second and third columns, the sentence beginning on the last line of the second column and reading "Due to the rarity of erythro-leukemia Vigliani noted that the 20 or more cases attributable to benzene reported in the literature seem to be significant (Ex. 2-49)" is corrected by enclosing that sentence in parenthesis.

19. On page 5927, second column, fourth line from bottom, "employees" is corrected to "employees".

20. On page 5927, third column, third line, the parenthesis is corrected to read "(0, 10.6, 20 ppm)".

21. On page 5927 third column, second full paragraph, fourteenth line, "20 percent" is corrected to "25 percent".

22. On page 5928, second column, first full paragraph, the parenthesis in the fifth line is corrected to read "(OTT, Ex. 154, p. 9)".

23. On page 5928, third column, third line from the bottom, "— 37" is corrected to read "2-37".

24. On page 5929, first column, eighth line from the bottom, "ML" is corrected to read "CML".

25. On page 5929, third column, sixteenth line, "aplastia" is corrected to "aplasia".

26. On page 5930, first column, third paragraph, the fifteenth line is corrected to add after the word "poisoning" the following: "and no new cases of leukemia in the rotorgrature industry".

27. On page 5930, second column second full paragraph, the twelfth line, the citation "(Ex 217-152)" is corrected to read "(Ex 2B-252)".

28. On page 5930, third column, first line, "c" is corrected to "C".

29. On page 5931, first column, second full paragraph, the third line is corrected to add "of" following "production".

30. On page 5931, second column, the fifth and sixth lines, the phrase "in the United States" is moved to the eleventh line and placed after the word "incidence".

31. On page 5931, second column, thirteenth line from bottom, "leukemia" is changed to "leukaemia".

32. On page 5931, second column, twelfth line from bottom, "34-5" is corrected to "39-5".

33. On page 5931, second column, sixth line from bottom is corrected to read, "leukemogenic action of benzene in man \* \* \* (Ex. 2-49)".

34. On page 5931, second column, second line from bottom is corrected to read, "dence that benzene causes leukemia in".

35. On page 5931, second column, the twenty-second and twenty-third