

media if one of these categories is applicable. The requester shall describe the use to which the records will be put.

3. Appendix B to Part 145 is revised to read as follows:

Appendix B—Schedule of Fees

(a) *Charges for requests.* The following charges may be made where applicable for responding to requests for records.

(1) Three dollars for each one-quarter hour spent by clerical personnel in searching for or reviewing records.

(2) Where a search or review cannot be performed by clerical personnel, \$4.50 for each quarter hour spent by professional personnel in searching for or reviewing records.

(3) For searches of records stored in computer formats, the operation of the central processing unit will be charged at a rate of \$24.00 per quarter hour and operator/programmer search time will be charged at \$4.50 per quarter hour.

(4) Document duplication, including computer printouts, will be charged at \$0.15 per page.

(5) For copies of materials other than paper records, such as computer tapes or cassette tapes, the requesting party shall be charged the actual cost of materials and reproduction, including the time of clerical personnel at a rate of \$3.00 per quarter hour.

(6) When, in accordance with § 145.7(f), a request has been made and granted to examine Commission records at an office of the Commission other than the office in which the records are routinely maintained, the requesting party (i) shall reimburse the Commission for the actual cost of transporting the records and (ii) shall be charged at a rate of \$3.00 for each quarter hour devoted by clerical personnel in preparing the records for transit.

(7) For certifying that requested records are true copies, the charge will be \$3.00 per certification.

(8) Upon request, records will be mailed by means of overnight or express mail at the fee of \$10.00 per package mailed.

(b) *Waiver or reduction of fees.* Fees shall be waived or reduced by the Commission if (i) the fee is less than \$5.00, the approximate cost to the Commission of collecting the fee; or, (ii) if the Commission determines that the disclosure of the information is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(c) *Applicability of fees.* Fees shall be charged even if no records are ultimately furnished to the requester. Fees apply to various types of requests as follows.

(1) *Commercial use request.* Fees for search time, review time and duplication of records will be charged to requests from or on behalf of one who seeks information for a user or purpose that furthers the commercial, trade or profit interests of the requester or the person on whose behalf the request is made.

(2) *Educational institution or noncommercial scientific institution.* Only duplication fees will be charged to schools or

to organizations which operate solely for the purpose of scientific research, the results of which are not intended to promote any particular product or industry. No charge will be made for the first 100 pages duplicated or for search or review time.

(3) *Representative of the news media.* Only duplication fees will be charged to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. No charge will be made for the first 100 pages duplicated or for search or review time.

(4) *Other requesters.* Fees for search time and duplication will be charged to requesters who are not covered by one of the categories above. No charge will be made for the first two hours of search time, the first 100 pages of duplication, or for review time. If the search is for records stored in a computer format, a combination of computer operation charges and search time charges will be waived up to the equivalent of two hours of professional search time.

(d) *Aggregation of requests.* For purposes of determining fees, the Commission may aggregate reasonably related requests if multiple requests are made within a 30-day period or if there is a solid basis for believing that multiple requests were made solely to avoid fees.

(e) *Notification of fees.* A request for Commission records may state that the party is willing to pay fees up to a stated limit for services to be provided in searching, reviewing and duplicating requested records. If such a statement is made, no work will be done that will result in fees beyond the stated limit without written authorization. If no limit is stated, no work will be done that will result in fees in excess of \$25.00 without written authorization from the requester.

(f) *Advance payment of fees.* The Commission may request advance payment of all or part of the fee (i) when fees are expected to exceed \$250; or (ii) when a requester has previously failed to pay fees in a timely fashion.

(g) *Payment of fees.* Payment should be made by check or money order payable to the Commodity Futures Trading Commission.

(h) *Interest on fees.* The Commission will begin charging interest on unpaid bills starting on the 31st day following the day on which the bill was sent. Interest will be at the rate prescribed in 31 U.S.C. 3717.

(i) *Collection of fees.* If fees not paid, the Commission may disclose debts to appropriate authorities for collection or to consumer reporting agencies.

4. The authority cite following Appendix B to Part 145 is deleted.

Issued in Washington, DC, on May 13, 1987, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87-11356 Filed 5-21-87; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 2

[Docket No. RM87-18-000; Order No. 471]

Public Utilities Policies Act: Primary Energy Source for Qualifying Small Power Production Facilities; Interpretation of "Waste Natural Gas"

Issued: May 18, 1987.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is announcing its interpretation of how the Commission will determine whether natural gas may be considered "waste" within the meaning of the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. 796(17)(A)(i) (1982), and therefore eligible as a primary energy source for a qualifying small power production facility. In order to be classified as waste, a material must be a by-product and currently have little or no commercial value. This final rule establishes guidelines for determining whether gas is unmarketable. Under the rule, the Commission will divide the gas into three categories based on heating values. The rule sets forth objective criteria under each category which the Commission will use to determine whether the gas is unmarketable.

EFFECTIVE DATE: This rule will be effective May 22, 1987.

FOR FURTHER INFORMATION CONTACT: Martha M. Poindexter, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, (202) 357-8428.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Martha O. Hesse, Chairman; Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

I. Introduction

The Commission is announcing its interpretation of how to determine whether natural gas may be classified as "waste" within the meaning of section 201 of the Public Utility Regulatory Policies Act of 1978 (PURPA),¹ and therefore eligible as a primary energy source for a qualifying small power production facility.

II. Background

Waste is included as an allowable primary energy source for qualifying small power production facilities in

¹ 16 U.S.C. 796(17)(A)(i) (1982).

section 201 of PURPA. The statute, however, does not define "waste." In *Kenvil Energy Corporation*, 23 FERC ¶ 61,139 (1983), the Commission explained that in order to be classified as "waste," a material must be both a by-product of a commercial or industrial process and currently have little or no commercial value. The by-product requirement is contained in § 292.202(b) of the Commission's regulations which defines "waste" as "by-product materials other than biomass."²

In *Pynoyl Corporation*, 38 FERC ¶ 61,136 (1987), the Commission found that low quality natural gas which had little or no commercial value could be considered waste. The applicant's low quality natural gas was produced in association with distillates which were being removed and sold commercially. The Commission concluded that the applicant's low quality gas was a by-product of the distillate recovery process. It further found that the low quality natural gas (300 Btu per standard cubic foot (scf)) had little or no commercial value and therefore qualified as waste. In that order, the Commission recognized that, as a result of its finding, there may be an increased number of applications which will propose to use low quality natural gas as the primary energy source of a small power production facility. In anticipation of these applications, the Commission stated its intent to establish criteria for determining the quality of the gas which may be considered waste.

III. Discussion

In order to be classified as waste, a material must be both a by-product material and have little or no current commercial value. This rule establishes guidelines for determining commercial marketability of natural gas. The goal of this rule is to make use of resources that would not otherwise be used, and to satisfy PURPA's requirement that otherwise useful resources are not diverted to small power production facilities.

The marketability of natural gas is determined by two factors—the market price and the cost of production of gas.

The subject of the market price is complicated by the current disequilibrium of natural gas markets. The Commission's recent policies have attempted to permit competitive forces to play a greater role in determining natural gas prices. To achieve this objective, the Commission has sought to remove or modify regulatory barriers that impede development of a

competitive gas marketplace. However, the Commission has recognized that its policies should not be designed solely to address the current natural gas supply surplus. Indeed, large quantities of gas that are unmarketable today could become marketable in the future. Thus, the Commission's rule should be sufficiently flexible to accommodate changes in the market.

The cost of production is the second major factor in determining the marketability of gas. The cost of production is influenced by a number of variables: Chemical composition, wellhead pressure, flow rate, and distance to a pipeline or other market.³ Chemical composition affects the cost of production and thus marketability of gas in that impure gas must be upgraded to pipeline quality for sale.⁴ Wellhead pressure also affects the cost of production since compression represents both a fixed and variable cost of delivering gas to a pipeline. Flow rate and distance to the nearest buyer affect the cost of production in that they affect the type and size of the gathering system needed to connect the gas supply to the buyer. All of these factors must be considered jointly since each affects the cost impact of the others.

The Commission recognizes that wide variation within these variables and the need to consider them jointly make it very difficult to develop a precise generic policy for determining whether natural gas is unmarketable. Generic estimates of the cost of upgrading are further complicated by the depressed condition of natural gas markets in the past several years. Few upgrading plants have been built recently. Thus, sufficient cost and performance data to support a generic standard of marketability are unavailable. Therefore, the Commission is promulgating this rule to establish generic standards for certain categories of natural gas.

³ The cost of drilling is not relevant to the question of gas marketability versus use in a small power production facility because drilling costs are incurred regardless of how the gas is used.

⁴ Different types of separation processes are used to remove different impurities. For example, cryogenic cooling processes are used to remove nitrogen. Carbon dioxide and hydrogen sulfide, two other common impurities, are typically recovered by absorption processes. The cost of upgrading varies with the chemical composition of the gas. Factors such as wellhead pressure and flow rate affect the choice of upgrading technology, and therefore, the cost of upgrading. Moreover, some of the impurities themselves have significant market values. Carbon dioxide can be used for enhanced oil recovery. Hydrogen sulfide can be converted to sulfur which also has a market value. The sale of these residuals complicates the economic analysis of natural gas upgrading because the market prices of carbon dioxide and sulfur vary widely by region.

The Commission is adopting a specific standard for defining the clearest cases of unmarketable gas. For others, the Commission is describing the factors that will be considered in determining whether gas is unmarketable. The Commission is dividing natural gas into three categories, based on heating values.

Category 1 will consist of natural gas with a heating value of 300 Btu per scf and below. Natural gas which falls within this category will automatically be considered unmarketable.

Category 2 will consist of natural gas with heating values above 300 Btu, but not more than 800 Btu per scf. In determining whether such gas is unmarketable, the Commission will consider the following factors: (1) The percentages of chemical components, wellhead pressure, and flow rate; (2) whether the applicant offered the gas to all potential buyers located within 20 miles of the wellhead under terms and conditions commensurate with those prevailing in the region and that such potential buyers refused to buy the gas; and (3) a study, which may be submitted by an applicant, that evaluates the economics of upgrading the gas for sale and transporting the gas to a pipeline. The study should include estimates of the revenues which could be derived from the sale of the gas and the fixed and variable costs of upgrading.

Category 3 will consist of natural gas with a heating value above 800 Btu per scf. In determining whether such gas is unmarketable, the Commission will consider the same factors as in Category 2. In addition, the Commission will consider whether: (1) The gas has actually been flared, vented to the atmosphere, or continuously injected into a non-producing zone for a period of one year, pursuant to legal authority; or (2) the gas has been certified as waste, i.e., suitable for disposal, by an appropriate state authority.⁵

In setting the limit for the first category (low-Btu gas), the Commission notes that for gas with a heating value of 300 Btu per scf and below, only extraordinary circumstances would make the gas worth upgrading.⁶ The

⁵ In states that do not have permitting procedures for the disposal of gas, the Commission will consider approving applications after notifying the state authorities and allowing them to comment.

⁶ A significant exception to this general observation is the commercial development of low-Btu gas in the Moxa Arch area in Wyoming and Utah. This project includes upgrading to pipeline quality for gas sales to interstate pipelines. The Big Piney-LaBarge (259 Btu per scf) gas reserve, a reserve in the Moxa Arch area which is presently being upgraded to pipeline quality and sold to ANR

Continued

² 18 CFR 292.202(b) (1986).

applicant in *Pynoyl Corporation* stated that the subject gas would not even burn under normal conditions. If such gas has a relatively low wellhead pressure, upgrading would require an external energy source. This would very likely be uneconomical.⁷

The Commission notes that available statistics indicate that natural gas with heating values above 800 Btu per scf is currently being marketed. However, the Commission believes that such gas should be considered unmarketable if it has been flared, vented to the atmosphere, or continuously injected into a non-producing zone for a period of one year. In order to avoid encouraging actual waste of such gas, the Commission will consider certification by appropriate state authorities that the gas is suitable for disposal.

Between the low-Btu gas in the first category and the high-Btu gas in the third category, lies a middle ground. Statistics indicate that gas in this category is not currently being marketed. However, technology exists for upgrading the gas for sale. Therefore, the Commission believes that the criteria set forth herein for this category are appropriate for determining whether such gas may be considered waste.

The Commission's regulations require that applications for certification include a copy of a notice of such application for publication in the *Federal Register*.⁸ In notices for

certification of facilities using waste gas which falls within the second or third category the Commission intends to include the identifying characteristics of the gas resource and a statement regarding whether there were buyers willing to purchase the gas, and encourages applicants to file this information. The Commission intends to add this information to notify potential buyers that may have been overlooked by an applicant of the opportunity to purchase the gas and to ensure that potential buyers that were notified were not willing to purchase the gas under reasonable terms and conditions.

The Commission believes that this approach strikes a balance between the administrative burden imposed on applicants for qualifying status and the Commission's objectives of utilizing wastes, while preventing otherwise useful gas from being diverted to small power production facilities.

IV. Effective Date

The Administrative Procedure Act exempts interpretative rules from both the notice and comment requirements of section 4(b) of the Administrative Procedure Act⁹ and the requirement that publication be made thirty days before the effective date of the rule.¹⁰ This interpretative rule will become effective upon publication in the *Federal Register*, without prior notice and comment.

List of Subjects in 18 CFR Part 2

Administrative practice and procedure, Electric power, Environmental impact statements, Natural gas, Pipelines, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission amends Part 2, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By the Commission.

Kenneth F. Plumb,
Secretary.

1. The authority citation for Part 2 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982); Executive Order No. 12,009, 3 CFR Part 142 (1978); Federal Power Act, 16 U.S.C. 792-825r (1982); Natural Gas Act, 15 U.S.C. 717-717w (1982); Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (1982); Public Utility Regulatory Policies Act of 1978, 16b U.S.C. 2601-2645 (1982); and the National Environmental Policy Act, 16 U.S.C. 4321-4361 (1978), unless otherwise indicated.

⁹ 5 U.S.C. 553(b) (1982).

¹⁰ 5 U.S.C. 553(d) (1982).

2. The Table of Contents for Part 2 is amended by adding a new heading and new § 2.400 to follow § 2.300 and to read as set forth below:

PART 2—STATEMENT OF INTERPRETATION UNDER THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

2.400 Statement of interpretation of waste concerning natural gas as the primary energy source for qualifying small power production facilities.

3. Part 2 is amended by adding a new § 2.400 to read as follows:

§ 2.400 Statement of interpretation of waste concerning natural gas as the primary energy source for qualifying small power production facilities.

For purposes of deciding whether natural gas may be considered as waste as the primary energy source pursuant to § 292.204(b)(1)(i) of this chapter, the Commission will use the criteria described in paragraphs (a), (b) and (c) of this section.

(a) *Category 1.* Except as provided in paragraph (b) of this section, natural gas with a heating value of 300 Btu per standard cubic foot (scf) or below will be considered unmarketable.

(b) *Category 2.* In determining whether natural gas with a heating value above 300 Btu but not more than 800 Btu per scf and natural gas produced in the Moxa Arch area is unmarketable, the Commission will consider the following information:

(1) The percentages of the chemical components of the gas, the wellhead pressure, and the flow rate;

(2) Whether the applicant offered the gas to all potential buyers located within 20 miles of the wellhead under terms and conditions commensurate with those prevailing in the region and that such potential buyers refused to buy the gas; and

(3) A study, which may be submitted by an applicant, that evaluates the economics of upgrading the gas for sale and transporting the gas to a pipeline. The study should include estimates of the revenues which could be derived from the sale of the gas and the fixed and variable costs of upgrading.

(c) *Category 3.* In determining whether natural gas with a heating value above 800 Btu per scf is marketable, the Commission will consider the information included in paragraph (b) of this section and whether:

(1) The gas has actually been flared, vented to the atmosphere, or continuously injected into a non-producing zone for a

Pipeline Company, represents an estimated recoverable reserve of seven trillion cubic feet (TCF). See ANR Pipeline Company, *et al.*, 32 FERC ¶ 61,313 (1985) (order granting certificates for construction and operation of a pipeline and authority to transport gas from the LaBarge reserve to the ANR Pipeline Company). The sale of helium, sulfur, and carbon dioxide by-products has allowed this reserve to be developed commercially. Because the Moxa Arch reserve is being developed commercially, we will exclude it from Category 1. Natural gas from this reserve will be placed in Category 2. For purposes of this rule, the Moxa Arch area is the area enclosed by the Department of Interior Survey coordinates: T12N through T32N and R109W through R115W in Wyoming, and T2N through T3N and R14E through R20E in Utah.

⁷ The Commission also considered requiring that gas in this category have a wellhead pressure of less than 1,500 psig. The rationale for a pressure standard is the apparent low cost of upgrading high-pressure gas for sale to pipelines. Wellhead pressures of 1,500 psig and are sufficiently above pipeline operating pressures (1,000 psig) so that no external input of energy may be required to drive a separation process. Without a pressure standard for low-Btu gas, some otherwise marketable gas could be automatically declared unmarketable. Nevertheless, the Commission concluded that more harm than good would result from requiring a pressure standard. Every source of gas is different. A pressure standard of 1,500 psig would likely prevent automatic qualification of some gas that could not be marketed. Since the probable impact of a pressure standard is not known at this time, the Commission decided not to adopt one.

⁸ 18 CFR 292.207(b)(6) (1986).

period of one year, pursuant to legal authority; or

(2) The gas has been certified as waste, i.e., suitable for disposal, by an appropriate state authority.

[FR Doc. 87-11705 Filed 5-21-87; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 19, 25, 70, 170, 179, 194, 197, 240, 250, 251, 270, 275, 285, 290, 295, and 296

[T.D. ATF-251]

Change in the Filing of Alcohol, Tobacco and Firearms Tax Returns, Claims and Related Documents

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Treasury decision, Final rule.

SUMMARY: This final rule amends regulations to require alcohol, tobacco and certain firearms excise tax returns, claims and related documents previously filed with the Internal Revenue Service (IRS) to be filed with ATF. The Treasury decision will also transfer from IRS to ATF the functions associated with the deposit and assessment of such excise taxes. All special (occupational) tax and domestic excise tax returns will be mailed to a special purpose post office box indicated on the return form, while Puerto Rican excise tax returns will be filed with the Chief, Puerto Rico Operations, ATF. All claims will be filed with the appropriate regional director (compliance). For Puerto Rican excise taxpayers, the bonds previously filed with and approved by the Officer-in-Charge, IRS, will now be approved by the regional director (compliance), and maintained on file by the Chief, Puerto Rico Operations. However, bonds previously approved by IRS remain valid. The tax stamps issued to special (occupational) taxpayers by IRS will be issued by ATF. Furthermore, certain conforming procedural and administrative rules are being transferred from IRS regulations in 26 CFR Parts 301 and 601 to ATF regulations in 27 CFR Part 70. These changes in the filing of alcohol, tobacco and firearms tax returns, claims and related documents and in the issuance of special tax stamps will reduce the time in responding to affected taxpayers and reduce processing costs for the Government.

EFFECTIVE DATE: Amendatory paragraphs 7-13, 34-42, 46-63, 67-69, 71-83, 90-94, 106, 132, and 135 are effective May 22, 1987. Amendatory paragraphs 1-6, 14-33, 43-45, 64-66, 70, 84-89, 95-105, 107-131, 133-134, and 136-189 are effective on July 1, 1987.

FOR FURTHER INFORMATION CONTACT:

Manfred Roesler, Coordinator, Procedures Branch, (202) 566-7602, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 1972, the Bureau of Alcohol, Tobacco and Firearms (ATF) was established by Treasury Department Order No. 120-01 (formerly Order No. 221). This order transferred from IRS to the newly-formed Bureau the functions, powers and duties relating to alcohol, tobacco, firearms, and explosives laws. The order specifically stated that "all existing activities relating to the collection, processing, depositing, or accounting for taxes . . . shall continue to be performed by the Commissioner of Internal Revenue to the extent not now performed by the Alcohol, Tobacco and Firearms Division . . . until the Director shall otherwise provide with the approval of the Secretary." Since the inception of the Bureau, ATF has continued to rely upon IRS to perform these functions.

Prior to the Tax Reform Act of 1986, existing law, 26 U.S.C. 6091, required all returns of tax, including special occupational tax, under the Internal Revenue Code of 1954, to be filed in an internal revenue district or at an Internal Revenue Service Center serving an internal revenue district.

The Tax Reform Act of 1986 amended section 6091 of the Internal Revenue Code to provide for the filing of certain excise tax returns with the Bureau rather than with IRS. Present law now vests in the Secretary the authority to prescribe the place for filing tax returns required under subtitle E of the Internal Revenue Code.

This final rule will transfer the functions associated with returns or other documents required to be filed with IRS to the Bureau. More specifically, this rule will require all alcohol, tobacco and certain firearms excise tax returns, claims, and related forms previously filed with IRS to be filed with ATF. The instructions on each form will include the address to which that form is to be mailed.

Transfer of Certain Regulations From 26 CFR Parts 301 and 601 to 27 CFR Part 70

In the past, many of the procedural and administrative rules listed in 26 CFR Parts 301 and 601 of the IRS regulations also applied to ATF because ATF did not have the means to independently perform certain deposit and accounting functions concerning the deposit and collection of excise taxes, including special (occupational) taxes. However, the recent enactment of the Tax Reform Act of 1986 (Pub. L. 99-514) now makes it possible for ATF to assume responsibility over deposit and accounting for excise taxes, including special (occupational) taxes. ATF has decided to recodify into 27 CFR Part 70 those provisions of 26 CFR Parts 301 and 601 which specifically apply to ATF, or specifically pertain to ATF matters. Presently, all deposit, assessment and collection functions with respect to the taxes administered by the Bureau are performed by the Internal Revenue Service. This Treasury decision will transfer from the Internal Revenue Service to ATF the authority to perform all functions associated with the deposit and assessment of such excise taxes. ATF anticipates that at a later date, it will also assume responsibility for all collection functions under Chapter 64 of the Internal Revenue Code now performed by IRS with respect to the alcohol, tobacco and certain firearms excise taxes administered by ATF.

Regulatory and Forms Changes

The change in the location for filing alcohol, tobacco and certain firearms tax returns, claims and related documents require many regulatory changes. Every regulation in Title 27 of the Code of Federal Regulations referring to the filing of ATF-related documents with IRS has been amended. In addition, since claims for the redemption of stamps and for the refund and abatement of such excise taxes will be filed with ATF instead of IRS, the sections of regulations which prescribe the use of IRS Form 843, Claim, have been amended to show ATF F 2635 (5620.8), Claim—Alcohol, Tobacco and Firearms Taxes. IRS Form 11, Special Tax Return and Application for Registry, has been redesignated ATF F 5630.5, Annual Special Tax Registration and Return, and this is also reflected in the regulations. ATF forms which have been revised to show that they will be filed with ATF instead of IRS are:

ATF F 5000.24—Excise Tax Return
ATF F 5110.52—Deferred Tax Return—
Distilled Spirits (Puerto Rico)

- ATF F 5110.53—Prepayment Tax Return—Distilled Spirits (Puerto Rico)
- ATF F 2927 (5120.33)—Deferred Tax Return—Wine (Puerto Rico)
- ATF F 2928 (5120.34)—Prepayment Tax Return—Wine (Puerto Rico)
- ATF F 2929 (5130.17)—Deferred Tax Return—Beer (Puerto Rico)
- ATF F 2930 (5130.21)—Prepayment Tax Return—Beer (Puerto Rico)
- ATF F 487-B (5170.7)—Application and Permit to Ship Liquors and Articles of Puerto Rican Manufacture Taxpaid to the United States
- ATF F 2988 (5200.5)—Deferred Tax Return—Puerto Rican Cigars and Cigarettes
- ATF F 3073 (5200.8)—Prepayment Tax Return—Puerto Rican Cigars, Cigarettes, Cigarette Papers and Cigarette Tubes
- ATF F 2897 (5120.32)—Tax Deferral Bond—Wine (Puerto Rico)
- ATF F 2898 (5130.16)—Tax Deferral Bond—Beer (Puerto Rico)
- ATF F 2986 (5210.12)—Deferral Bond—Cigars and Cigarettes (Puerto Rico)
- ATF F 5110.50—Tax Deferral Bond—Distilled Spirits (Puerto Rico)
- ATF F 5110.51—Application, Permit, and Report—Distilled Spirits Products (Puerto Rico)
- ATF F 2900 (5100.21)—Application, Permit, and Report—Wine and Beer (Puerto Rico)

Three forms have been eliminated. ATF F 4640 (5600.5), Remittance Transmittal (ATF), was used by export warehouse proprietors to pay taxes on tobacco products and cigarette papers and tubes for which evidence of exportation was not timely furnished as provided in 27 CFR 290.67. ATF F 5000.24, Excise Tax Return, has been revised and will be used whenever this tax is required to be paid. ATF F 5620.3, Notice of Adjustment of Claim for Abatement, and ATF F 5620.5, Notice of Adjustment of Claim, have also been eliminated because IRS is no longer involved in the refund process. The claimant will now be advised of adjustments directly by ATF on the copy of the ATF F 2635 (5620.8), Claim—Alcohol, Tobacco and Firearms Taxes, that is returned to the taxpayer.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because the agency was not required to publish a general notice of proposed rulemaking under 5 U.S.C. 553 or any other law.

Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this

final rule is not a "major rule" since it will not result in:

- (a) An annual effect on the economy of \$100 million or more;
- (b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- (c) Significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The requirement to file a tax return has been previously approved by the Office of Management and Budget under Control Number 1512-0467.

Administrative Procedure Act

Because this final rule merely recodifies existing requirements relating to deposit, assessment and place of filing ATF tax returns and other documents from the Internal Revenue Service under Title 26 of the Code of Federal Regulations to ATF under Title 27 of such Code, it is found to be 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 limitation of 5 U.S.C. 553(d).

Drafting Information

The principal authors of this document are James A. Hunt and Robert L. White of the FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 19

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations (Government agencies), Claims, Chemicals, Customs duties and inspection, Electronic fund transfers, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Research, Security measures, Spices and flavorings, Surety bonds, Transportation, Virgin Islands, Warehouses, Wine.

27 CFR Part 25

Administrative practice and procedure, Authority delegations (Government agencies), Beer, Claims, Electronic fund transfers, Excise taxes, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Research, Surety bonds, Transportation.

27 CFR Part 70

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations (Government agencies), Claims, Excise taxes, Firearms and ammunition, Government employees, Law enforcement, Law enforcement officers, Tobacco.

27 CFR Part 170

Alcohol and alcoholic beverages, Authority delegations (Government agencies), Claims, Customs duties and inspection, Disaster assistance, Excise taxes, Labeling, Liquors, Penalties, Reporting and recordkeeping requirements, Surety bonds, Wine.

27 CFR Part 179

Administrative practice and procedure, Arms and munitions, Authority delegations (Government agencies), Customs duties and inspection, Exports, Imports, Military personnel, Penalties, Reporting requirements, Research, Seizures and forfeitures, and Transportation.

27 CFR Part 194

Alcohol and alcoholic beverages, Authority delegations (Government agencies), Beer, Claims, Excise taxes, Exports, Labeling, Liquors, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Wine.

27 CFR Part 197

Alcohol and alcoholic beverages, Authority delegations (Government agencies), Claims, Drugs, Excise taxes, Foods, Spices and flavorings, Surety bonds, Reporting and recordkeeping requirements.

27 CFR Part 240

Administrative practice and procedure, Authority delegations (Government agencies), Claims, Electronic fund transfers, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Transportation, Vinegar, Warehouses, Wine.

27 CFR Part 250

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations (Government agencies), Beer, Customs duties and inspection, Electronic fund transfers, Excise taxes, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Surety bonds.

Transportation, Virgin Islands, Warehouses, Wine.

27 CFR Part 251

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations (Government agencies), Beer, Cosmetics, Customs duties and inspection, Excise taxes, Imports, Labeling, Liquors, Packaging and containers, Perfume, Reporting and recordkeeping requirements, Transportation, Wine.

27 CFR Part 270

Administrative practice and procedure, Authority delegations (Government agencies), Cigars and cigarettes, Claims, Electronic fund transfers, Excise taxes, Labeling, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds.

27 CFR Part 275

Administrative practice and procedure, Authority delegations (Government agencies), Cigarette papers and tubes, Cigars and cigarettes, Claims, Customs duties and inspection, Electronic fund transfers, Excise taxes, Imports, Labeling, Packaging and containers, Penalties, Puerto Rico, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds, Virgin Islands, Warehouses.

27 CFR Part 285

Administrative practice and procedure, Authority delegations (Government agencies), Cigarette papers and tubes, Cigars and cigarettes, Claims, Excise taxes, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds.

27 CFR Part 290

Administrative practice and procedure, Aircraft, Authority delegations (Government agencies), Cigarette papers and tubes, Cigars and cigarettes, Claims, Customs duties and inspection, Excise taxes, Exports, Foreign trade zones, Labeling, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Surety bonds, Vessels, Warehouses.

27 CFR Part 295

Administrative practice and procedure, Authority delegations (Government agencies), Cigarette papers and tubes, Cigars and cigarettes, Excise taxes, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

27 CFR Part 296

Cigarette papers and tubes, Cigars and cigarettes, Claims, Disaster assistance, Excise taxes, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds.

Issuance

Title 27 CFR is amended as follows:

PART 19—[AMENDED]

Paragraph 1. The authority citation for Part 19 continues to read as follows:

Authority: 19 U.S.C. 81c, 1311; 26 U.S.C. 5001, 5002, 5004–6, 5008, 5041, 5061, 5062, 5066, 5101, 5111–5113, 5171–5173, 5175, 5176, 5178–5181, 5201–5207, 5211–5215, 5221–5223, 5231, 5232, 5235, 5236, 5241–5243, 5271–5273, 5301, 5311–5313, 5362, 5370, 5373, 5501–5505, 5551–5555, 5559, 5561, 5562, 5601, 5612, 5682, 6001, 6065, 6109, 6302, 6311, 6676, 7510, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

§ 19.44 [Amended]

Para. 2. Section 19.44 is amended by replacing the first and second sentence with the sentence "All claims filed under this part shall be filed on Form 2635 (5620.8)."

§ 19.519 [Amended]

Para. 3. Section 19.519 is amended by replacing the phrase "district director" with the phrase "regional director (compliance)" and the citation "26 CFR 301.6311–1" with the citation "§ 70.66" in the second and next to the last sentences and the phrase "Internal Revenue Service" with the phrase "Bureau of Alcohol, Tobacco and Firearms" in the last sentence.

§ 19.524 [Amended]

Para. 4. Section 19.524(c)(1) is amended by replacing the phrase "the director of the service center, district director, or regional director (compliance)," with the word "ATF."

§ 19.525 [Amended]

Para. 5. Section 19.525(a) is amended by replacing the phrase "the district director, director of the service center, or regional director (compliance)," with the word "ATF."

PART 25—[AMENDED]

Para. 6. The authority citation for Part 25 continues to read as follows:

Authority: 5 U.S.C. 552(a); 19 U.S.C. 81c; 26 U.S.C. 5002, 5051–5054, 5056, 5061, 5091, 5111, 5113, 5142, 5143, 5146, 5222, 5401–5403, 5411–5417, 5551, 5552, 5555, 5556, 5671, 5673, 5684, 6011, 6061, 6065, 6091, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6651, 6656, 6676, 6806, 7011, 7342, 7606, 7805; 31 U.S.C. 9301, 9303–9308.

§§ 25.118, 25.122, 25.125, and 25.126 [Amended]

Para. 7. Sections 25.118, 25.122, 25.125, and 25.126 are amended by replacing the phrase "IRS Form 11" wherever it appears with the phrase "Form 5630.5."

§ 25.117 [Amended]

Para. 8. Section 25.117 is amended by replacing the second sentence of paragraph (a) with the sentence "The return will be filed, with payment of tax, with ATF in accordance with the instructions on the form.", by replacing the second sentence of paragraph (b)(1) with the sentence "The return will be filed with ATF in accordance with the instructions on the form; and", by replacing the phrase "IRS Form 11" wherever it appears with the phrase "Form 5630.5", and by removing paragraph (c).

§ 25.119 [Amended]

Para. 9. Section 25.119 is amended by replacing in paragraph (c) the phrase "internal revenue" with the word "ATF" and by replacing the phrase "IRS Form 11" wherever it appears in the heading and paragraph with the phrase "Form 5630.5."

§ 25.121 [Amended]

Para. 10. Section 25.121 is amended by replacing in the second sentence the citation "26 CFR 301.6676–1" with the citation "§ 70.105" and by replacing the phrase "IRS Form 11" wherever it appears with the phrase "Form 5630.5."

Para. 11. Section 25.131 is revised to read as follows:

§ 25.131 Change in name.

If there is a change in the corporate or firm name, or in the trade name, the brewer shall, within 30 days after the change, file an additional return on Form 5630.5 covering the new corporate or firm name, or trade names. The brewer shall forward the special tax stamp or stamps with the additional return for appropriate notation with respect to the change in name.

§ 25.132 [Amended]

Para. 12. Section 25.132(b) is amended by removing from the first sentence the phrase "with the director of the service center who issued the stamp" and by replacing the phrase "IRS Form 11" with the phrase "Form 5630.5."

§ 25.134 [Amended]

Para. 13. Section 25.134 is amended by removing in the first sentence the phrase "with the director of the service center who issued the stamp", by replacing in the first sentence the phrase "IRS Form 11" with the phrase "Form 5630.5," and

by replacing in the second sentence the phrase "to the director of the service center" with the phrase "with the amended return."

Para. 14. Section 25.163 is revised to read as follows:

§ 25.163 Method of tax payment.

A brewer shall pay the tax on beer by return on Form 5000.24, as provided in §§ 25.164, 25.173 and 25.175. The brewer shall pay the tax by remittance at the time the tax return is rendered, and the remittance will be by check or money order payable to the "Bureau of Alcohol, Tobacco and Firearms" and mailed with the return, or will be effected by an electronic fund transfer. In paying the tax, a fractional part of a cent will be disregarded unless it amounts to one-half cent or more, in which case it will be increased to one cent.

Para. 15. Section 25.164(e)(1) is revised to read as follows:

§ 25.164 Semimonthly return.

(e) *Timely filing.* (1) When the brewer sends the semimonthly tax return, Form 5000.24, by U.S. mail, in accordance with the instructions on the form, as required by this section, with remittance as provided for in this section, or without remittance as provided for in § 25.165, the date of the official postmark of the United States Postal Service stamped on the cover in which the return and remittance were mailed is considered the date of delivery of the return and the date of delivery of the remittance, if enclosed with the return. When the postmark on the cover is illegible, the burden is on the brewer to prove when the postmark was made.

§ 25.165 [Amended]

Para. 16. Section 25.165(c)(1) is amended by replacing the phrase "the director of the service center, district director, or regional director (compliance)" with the word "ATF".

§ 25.166 [Amended]

Para. 17. Section 25.166(b) is amended by replacing the phrase "Form 843" with the phrase "Form 2635 (5620.8)".

§ 25.173 [Amended]

Para. 18. Section 25.173(b) is amended by replacing the citation "26 CFR 301.6311-1" with the citation "§ 70.66."

§ 25.175 [Amended]

Para. 19. Section 25.175 is amended by removing from paragraph (b)(1) the phrase "or delivering to the district director, or director of the service center", by replacing in the first sentence of paragraph (b)(2) the phrase

"delivering or forwarding it to the district director, director of the service center or regional director (compliance)" with the phrase "forwarding it", and removing from paragraph (b)(3) the phrase "to the district director or director of the service center."

§ 25.283 [Amended]

Para. 20. Section 25.283(d) is amended by replacing the phrase "IRS Form 843" with the phrase "Form 2635 (5620.8)".

§ 25.285 [Amended]

Para. 21. Section 25.285(a) is amended by replacing the phrase "IRS Form 843" with the phrase "Form 2635 (5620.8)" and by replacing the citations "26 CFR 301.6511(a)-1 and 301.6511(b)-1" with the citations "§§ 70.82 and 70.83."

PART 70—[AMENDED]

Para. 22. The authority citation for Part 70 is revised to read as follows:

Authority: 5 U.S.C. 301 and 552; 26 U.S.C. 5146, 5203, 5207, 5275, 5367, 5415, 5504, 5555, 5684(a), 5741, 5761(b), 6020, 6155, 6201, 6203, 6204, 6311, 6313, 6314, 6401, 6402, 6404, 6407, 6423, 6501, 6511, 6513, 6514, 6532, 6601, 6602, 6611, 6621, 6622, 6651, 6653, 6656, 6657, 6658, 6662, 6671, 6672, 6676, 6701, 6801, 6862, 6863, 7011, 7601-7606, 7608, 7622, 7623, 7653, 7805.

Para. 23-24. Section 70.1 is revised to read as follows:

§ 70.1 General.

This part sets forth the procedural and administrative rules of the Bureau of Alcohol, Tobacco and Firearms for:

(a) The issuance and enforcement of summonses, examination of books of account and witnesses, administration of oaths, entry of premises for examination of taxable objects, granting of rewards for information, canvass of regions for taxable objects and persons, and authority of ATF officers.

(b) The use of commercial banks for payment of excise taxes imposed by 26 U.S.C. Subtitles E and F.

(c) The preparing or executing of returns; deposits; payment on notice and demand; assessment; abatements, credits, and refunds; limitations on assessment; limitations on credit or refund; periods of limitation in judicial proceedings; interest; additions to the tax, additional amounts, and assessable penalties; authority for establishment, alteration, and distribution of stamps, marks, or labels; jeopardy assessment of alcohol, tobacco, and firearms taxes; and registration of persons paying a special tax.

(d) Distilled spirits, wines, beer, tobacco products, cigarette papers and tubes, and certain firearms and explosives.

Para. 25. Subpart E is added immediately following the regulations in Subpart D to read as follows:

Subpart E—Procedural and Administrative Rules Relating to Collection of Excise and Special (Occupational) Taxes

Miscellaneous Provisions

- Sec.
70.61 Returns prepared or executed by regional directors (compliance) or by other ATF officers.
70.62 Payment on notice and demand.

Assessment

- 70.63 Assessment authority.
70.64 Method of assessment.
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Abatements, Credits, and Refunds

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- 70.70 Amounts treated as overpayments.
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70.75 Date of allowance of refund or credit.

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- 70.78 Conditions to allowance.

Limitations

Limitations on Assessment

- 70.79 Period of limitations upon assessment.
70.80 Time return deemed filed for purposes of determining limitations.
70.81 Exceptions to general period of limitations on assessment and collection.

Limitations on Credit or Refund

- 70.82 Period of limitation on filing claim.
70.83 Limitations on allowance of credits and refunds.
70.84 Special rules applicable in case of extension of time by agreement.
70.85 Time return deemed filed and tax considered paid.
70.86 Credits or refunds after period of limitation.
70.87 Credit against barred liability.

Periods of Limitation in Judicial Proceedings

- 70.88 Periods of limitation on suits by taxpayers.
70.89 Periods of limitation on suits by the United States.

Interest

- 70.90 Interest on underpayments.
70.91 Interest on erroneous refund recoverable by suit.
70.92 Interest on overpayments.
70.93 Interest rate.
70.94 Interest compounded daily.

Additions to the Tax, Additional Amounts, and Assessable Penalties**Additions to the Tax and Additional Amounts**

- Sec.
70.95 Scope
70.96 Failure to file tax return or to pay tax.
70.97 Failure to pay tax.
70.98 Penalty for underpayment of deposits.
70.99 Penalty for overstated deposit claims.
70.100 Bad checks.
70.101 Coordination with title 11.
70.102 Failure to pay tax.

Assessable Penalties

- 70.103 Rules for application of assessable penalties.
70.104 Failure to collect and pay over tax, or attempt to evade or defeat tax.
70.105 Penalty for failure to supply taxpayer identification number.
70.106 Penalties for aiding and abetting understatement of tax liability.

General Provisions Relating to Stamps, Marks, or Labels

- 70.107 Authority for establishment, alteration, and distribution of stamps, marks, or labels.

Jeopardy Assessment

- 70.108 Jeopardy assessment of alcohol, tobacco, and firearms taxes.

Registration

- 70.109 Registration of persons paying a special tax.

Subpart E—Procedural and Administrative Rules Relating to Collection of Excise and Special (Occupational) Taxes**Miscellaneous Provisions****§ 70.51 Returns prepared or executed by regional directors (compliance) or by other ATF officers.**

(a) *Preparation of returns*—(1) *General.* If any person required by Subtitle E of the Internal Revenue Code (or by any provision of Subtitle F which relates to Subtitle E) or by the regulations prescribed thereunder to make a return fails to make such return, it may be prepared by the regional director (compliance) or other authorized officer of the Bureau of Alcohol, Tobacco and Firearms provided such person consents to disclose all information necessary for the preparation of such return. The return upon being signed by the person required to make it shall be received by the regional director (compliance) as the return of such person.

(2) *Responsibility of person for whom return is prepared.* A person for whom a return is prepared in accordance with paragraph (a)(1) of this section shall for all legal purposes remain responsible for the correctness of the return to the same extent as if the return had been prepared by such person.

(b) *Execution of returns*—(1) *General.* If any person required by Subtitle E of the Internal Revenue Code (or by any provision of Subtitle F which relates to Subtitle E) or by the regulations prescribed thereunder to make a return fails to make such return at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, the regional director (compliance) or other authorized officer of the Bureau of Alcohol, Tobacco and Firearms shall make such return from the person's own knowledge and from such information as such person can obtain through testimony or otherwise.

(2) *Status of returns.* Any return made in accordance with paragraph (b)(1) of this section and subscribed by the regional director (compliance) or other authorized officer of the Bureau of Alcohol, Tobacco and Firearms shall be prima facie good and sufficient for all legal purposes.

(c) *Cross references.* (1) For provisions that the return executed by a regional director (compliance) or other authorized officer of the Bureau of Alcohol, Tobacco and Firearms will not start the running of the period of limitations on assessment and collection, see section 6501(b)(3) of the Internal Revenue Code and § 70.80(b) of this part.

(2) For additions to the tax and additional amounts for failure to file returns, see section 6651 of the Internal Revenue Code.

(3) For additions to the tax for failure to pay tax, see sections 5684, 5761, and 6653 of the Internal Revenue Code.

(4) For failure to make deposit of taxes or overstatement of deposit claims, see section 6656 of the Internal Revenue Code.

(5) For an additional penalty for tendering a bad check or money order, see section 6657 of the Internal Revenue Code.

(6) For certain failures to pay tax with respect to cases pending under Title 11 of the United States Code, see section 6658 of the Internal Revenue Code.

(7) For failure to supply identifying numbers, see section 6676 of the Internal Revenue Code.

(8) For penalties for aiding and abetting understatement of tax liability, see section 6701 of the Internal Revenue Code.

(9) For criminal penalties for willful failure to make returns, see sections 7201, 7202, and 7203 of the Internal Revenue Code.

(10) For criminal penalties for willfully making false or fraudulent returns, see sections 7206 and 7207 of the Internal Revenue Code.

(11) For authority to examine books and witnesses, see section 7602 of the Internal Revenue Code and § 70.22.

(26 U.S.C. 6020)

§ 70.62 Payment on notice and demand.

Upon receipt of notice and demand from the regional director (compliance), there shall be paid at the place and time stated in such notice the amount of any tax (including any interest, additional amounts, additions to the tax, and assessable penalties) stated in such notice and demand.

(26 U.S.C. 6155)

Assessment**§ 70.63 Assessment authority.**

(a) *General.* The regional director (compliance) is authorized and required to make all inquiries necessary to the determination and assessment of all taxes which are administered by the Bureau of Alcohol, Tobacco and Firearms under Subtitle E of the Internal Revenue Code or under any provision of Subtitle F which relates to Subtitle E or any prior internal revenue law. The regional director (compliance) is further authorized and required to make the determinations and the assessments of such taxes. The term "taxes" includes interest, additional amounts, additions to the taxes, and assessable penalties. The authority of the regional director (compliance) to make assessment includes the following:

(b) *Taxes shown on return.* The regional director (compliance) shall assess all taxes determined by the taxpayer or by the regional director (compliance) and disclosed on a return or list.

(c) *Unpaid taxes payable by stamp.* (1) If without the use of the proper stamp:

(i) Any article upon which a tax is required to be paid by means of a stamp is sold or removed for sale or use by the manufacturer thereof, or

(ii) Any transaction or act upon which a tax is required to be paid by means of a stamp occurs; The regional director (compliance), upon such information as can be obtained, must estimate the amount of the tax which has not been paid and the regional director (compliance) must make assessment therefor upon the person the regional director (compliance) determines to be liable for the tax. However, the regional director (compliance) may not assess any tax which is payable by stamp unless the taxpayer fails to pay such tax at the time and in the manner provided by law or regulations.

(2) If a taxpayer gives a check or money order as a payment for stamps but the check or money order is not paid upon presentment, then the regional director (compliance) shall assess the amount of the check or money order against the taxpayer as if it were a tax due at the time the check or money order was received by the regional director (compliance).

(26 U.S.C. 6201)

§ 70.64 Method of assessment.

The regional director (compliance) shall appoint one or more assessment officers. The assessment shall be made by an assessment officer signing the summary record of assessment. The summary record, through supporting records, shall provide identification of the taxpayer, the character of the liability assessed, the taxable period, if applicable, and the amount of the assessment. The amount of the assessment shall, in the case of tax shown on a return by the taxpayer, be the amount so shown, and in all other cases the amount of the assessment shall be the amount shown on the supporting list or record. The date of the assessment is the date the summary record is signed by an assessment officer. If the taxpayer requests a copy of the record of assessment, the taxpayer shall be furnished a copy of the pertinent parts of the assessment which set forth the name of the taxpayer, the date of assessment, the character of the liability assessed, the taxable period, if applicable, and the amounts assessed.

(26 U.S.C. 6203)

§ 70.65 Supplemental assessments.

If any assessment is incomplete or incorrect in any material respect, the regional director (compliance), subject to the applicable period of limitation, may make a supplemental assessment for the purpose of correcting or completing the original assessment.

(26 U.S.C. 6204)

Receipt of Payment

§ 70.66 Payment by check or money order.

(a) *Authority to Receive*—(1) *General*. (i) Regional directors (compliance) may accept checks drawn on any bank or trust company incorporated under the laws of the United States or under the laws of any State, Territory, or possession of the United States, or money orders in payment for internal revenue taxes, provided such checks or money orders are collectible in U.S. currency at par, and subject to the further provisions contained in this

section. The Director may accept such checks or money orders in payment for internal revenue stamps (authorized under Subtitle E of the Internal Revenue Code or any provision of Subtitle F which relates to Subtitle E) to the extent and under the conditions prescribed in paragraph (a)(2) of this section. A check or money order in payment for internal revenue taxes or internal revenue stamps should be made payable to the Bureau of Alcohol, Tobacco and Firearms. A check or money order is payable at par only if the full amount thereof is payable without any deduction for exchange or other charges. As used in this section, the term "money order" means:

(A) U.S. postal, bank, express, or telegraph money order; and

(B) Money order issued by a domestic building and loan association (as defined in section 7701(a)(19) of the Internal Revenue Code) or by a similar association incorporated under the laws of a possession of the United States;

(C) A money order issued by such other organization as the Director may designate; and

(D) A money order described in paragraph (a)(1)(ii) of this section in cases therein described. However, the regional director (compliance) may refuse to accept any personal check whenever there is good reason to believe that such check will not be honored upon presentment.

(ii) An American citizen residing in a country with which the United States maintains direct exchange of money orders on a domestic basis may pay his/her tax by postal money order of such country. For a list of such countries, see section 171.27 of the Postal Manual of the United States.

(iii) If one check or money order is remitted to cover two or more persons' taxes, the remittance should be accompanied by a letter of transmittal clearly identifying—

(A) Each person whose tax is to be paid by the remittance;

(B) The amount of the payment on account of each such person; and

(C) The kind of tax paid.

(2) *Payment for internal revenue stamps*—In general. The Director may accept checks and money orders described in paragraph (a)(1) of this section, in payment for internal revenue stamps authorized under Subtitle E of the Internal Revenue Code or under any provision of Subtitle F which relates to Subtitle E. However, the Director may refuse to accept any personal check whenever there is good reason to believe that the check will not be honored upon presentment.

(3) *Payment of tax on distilled spirits, wine, beer, tobacco products; proprietor in default*. Where a check or money order tendered in payment for taxes on distilled spirits, wine or beer products (imposed under Chapter 51 of the Internal Revenue Code), or tobacco products (imposed under Chapter 52 of the Internal Revenue Code) is not paid on presentment, or where a taxpayer is otherwise in default in payment of such taxes, any remittance for such taxes made during the period of such default, and until the regional director (compliance) finds that the revenue will not be jeopardized by the acceptance of personal checks, shall be in cash, or shall be in the form of a certified, cashier's, or treasurer's check, drawn on any bank or trust company incorporated under the laws of the United States, or under the laws of any State or possession of the United States, or a money order as described in paragraph (a)(1) of this section.

(b) *Checks or money orders not paid*—(1) *Ultimate liability*. The person who tenders any check (whether certified or uncertified, cashier's, treasurer's, or other form of check) or money order in payment for taxes is not released from liability until the check or money order is paid; and, if the check or money order is not duly paid, the person shall also be liable for all legal penalties and additions, to the same extent as if such check or money order had not been tendered. For the penalty in case a check or money order is not duly paid, see section 6657 of the Internal Revenue Code. For assessment of the amount of a check or money order not duly paid see section 6201(a)(2)(B) of the Internal Revenue Code.

(2) *Liability of banks and others*. If any certified, treasurer's, or cashier's check (or other guaranteed draft) or money order is not duly paid, the United States shall have a lien for the amount of such check upon all assets of the bank or trust company on which drawn or for the amount of such money order upon the assets of the issuer thereof. The unpaid amount shall be paid out of such assets in preference to any other claims against such bank or issuer except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such bank. In addition, the Government has the right to exact payment from the person required to make the payment.

(26 U.S.C. 6311)

§ 70.67 Fractional parts of a cent.

In the payment of any tax, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent. Fractional parts of a cent shall not be disregarded in the computation of taxes.

(26 U.S.C. 6313)

§ 70.68 Receipt for taxes.

The regional director (compliance) shall, upon request, issue a receipt for each tax payment made (other than a payment for stamps sold or delivered). In the case of payments made by check, the canceled check is usually a sufficient receipt. No receipt shall be issued in lieu of a stamp representing a tax, whether the payment is cash or otherwise.

(26 U.S.C. 6314)

Abatements, Credits, and Refunds*Procedure in General***§ 70.70 Amounts treated as overpayments.**

(a) The term "overpayment" includes any payment of any internal revenue tax which is assessed or collected after the expiration of the period of limitation applicable thereto.

(b) An amount paid as tax shall not be considered not to constitute an overpayment solely by reason of the fact that there was no tax liability in respect of which such amount was paid.

(26 U.S.C. 6401)

§ 70.71 Authority to make credits or refunds.

The regional director (compliance), within the applicable period of limitations, may credit any overpayment of tax, including interest thereon, against any outstanding liability for any tax (or for any interest, additional amount, addition to the tax, or assessable penalty) owed by the person making the overpayment and the balance, if any, shall be refunded, subject to section 6402 (c) and (d) of the Internal Revenue Code and the regulations thereunder, to such person by the regional director (compliance).

(26 U.S.C. 6402)

§ 70.72 Claims for credit or refund.

(a) *Requirement that claim be filed.*

(1) Credits or refunds of overpayments may not be allowed or made after the expiration of the statutory period of limitation properly applicable unless, before the expiration of such period, a claim therefor has been filed by the taxpayer. Furthermore, under section 7422 of the Internal Revenue Code, a

civil action for refund may not be instituted unless a claim has been filed within the properly applicable period of limitation.

(2) All claims relating to Subtitle E of the Internal Revenue Code (or to any provision of Subtitle F which, relates to Subtitle E), together with appropriate supporting evidence, shall be filed with the regional director (compliance), for the region in which the claimant is located. As to interest in the case of credits or refunds, see section 6611 of the Internal Revenue Code. See section 7502 for provisions treating timely mailing as timely filing and section 7503 for time for filing claim when the last day falls on a Saturday, Sunday, or legal holiday.

(b) *Grounds set forth in claim.* (1) No refund or credit will be allowed after the expiration of the statutory period of limitation applicable to the filing of a claim therefor except upon one or more of the grounds set forth in a claim filed before the expiration of such period. The claim must set forth in detail each ground upon which credit or refund is claimed and facts sufficient to apprise the regional director (compliance) of the exact basis thereof. The statement of the grounds and facts must be verified by a written declaration that it is made under the penalties of perjury. A claim which does not comply with this paragraph will not be considered for any purpose as a claim for the refund or credit.

(2) The regional director (compliance) does not have authority to refund on equitable grounds penalties or other amounts legally collected.

(c) *Form for filing claim.* All claims by taxpayers for the refunding of taxes, interest, penalties, and additions to tax shall be made on Form 2835 (5620.8).

(d) *Proof of representative capacity.* If a return is filed by an individual and, after the individual's death, a refund claim is filed by a legal representative, certified copies of the letters testamentary, letters of administration, or other similar evidence must be annexed to the claim, to show the authority of the legal representative to file the claim. If an executor, administrator, guardian, trustee, receiver, or other fiduciary files a return and thereafter a refund claim is filed by the same fiduciary, documentary evidence to establish the legal authority of the fiduciary need not accompany the claim, provided a statement is made in the claim showing that the return was filed by the fiduciary and that the latter is still acting. In such cases, if a refund is to be paid, letters testamentary, letters of administration, or other evidence may be required, but should be submitted only upon the receipt of a

specific request therefor. If a claim is filed by a fiduciary other than the one by whom the return was filed, the necessary documentary evidence should accompany the claim. A claim may be executed by an agent of the person assessed, but in such case a power of attorney must accompany the claim.

(e) *Mailing of refund check.* (1) Checks in payment of claims allowed will be drawn in the names of the persons entitled to the money and, except as provided in paragraph (e)(2) of this section, the checks may be sent direct to the claimant or to such person in care of an attorney or agent who has filed a power of attorney specifically authorizing the attorney or agent to receive such checks.

(2) Checks in payment of claims which have either been reduced to judgment or settled in the course or as a result of litigation will be drawn in the name of the person or persons entitled to the money and will be sent to the Assistant Attorney General, Tax Division, Department of Justice, for delivery to the taxpayer or the counsel of record in the court proceeding.

(3) For restrictions on the assignment of claims, see 31 U.S.C. 3727.

(26 U.S.C. 6402)

§ 70.73 Payments in excess of amounts shown on return.

In certain cases, the taxpayer's payments in respect of a tax liability, made before the filing of the taxpayers return, may exceed the amount of tax shown on the return. In any case in which the regional director (compliance) determines that the payments by the taxpayer (made within the period prescribed for payment and before the filing of the return) are in excess of the amount of tax shown on the return, the regional director (compliance) may make credit or refund of such overpayment without awaiting examination of the completed return and without awaiting filing of a claim for refund. However, the provisions of § 70.72 are applicable to such overpayment, and taxpayers should submit claims for refund to protect themselves in the event the regional director (compliance) fails to make such determination and credit or refund.

(26 U.S.C. 6402)

§ 70.74 Abatements.

(a) The regional director (compliance) may abate the unpaid portion of any assessment or liability, if the assessment is in excess of the correct tax liability, if the assessment is made subsequent to the expiration of the period of limitation

applicable thereto, or if the assessment has been erroneously or illegally made.

(b) If more than the correct amount of tax, interest, additional amount, addition to the tax, or assessable penalty is assessed but not paid to the regional director (compliance), the person against whom the assessment is made may file a claim for abatement of such overassessment. Each claim for abatement under this section shall be made on Form 2635 (5620.8) in accordance with the instructions on the form. All such claims shall be filed with the regional director (compliance).

(c) The Director may issue uniform instructions to regional directors (compliance) authorizing them, to the extent permitted in such instructions, to abate amounts the collection of which is not warranted because of the administration and collection costs.

(26 U.S.C. 6404)

§ 70.75 Date of allowance of refund or credit.

The date on which the regional director (compliance), or an authorized certifying officer designated by the regional director (compliance), first certifies the allowance of an overassessment in respect of any internal revenue tax imposed by Subtitle E of the Internal Revenue Code (or by any provision of Subtitle F which relates to Subtitle E) shall be considered as the date of allowance of refund or credit in respect of such tax.

(26 U.S.C. 6407)

Rule of Special Application

§ 70.78 Conditions to allowance.

For regulations under section 6423 of the Internal Revenue Code, see Part 170 of this chapter, relating to distilled spirits, wine, and beer; and Part 296 of this chapter, relating to tobacco products, and cigarette papers and tubes.

(26 U.S.C. 6423)

Limitations

Limitations on Assessment

§ 70.79 Period of limitations upon assessment.

(a) The amount of any tax imposed by the Internal Revenue Code (other than a tax collected by means of stamps) shall be assessed within 3 years after the return was filed. For rules applicable in cases where the return is filed prior to the due date thereof, see section 6501(b) of the Internal Revenue Code. In the case of taxes payable by stamps, assessment shall be made at any time after the tax becomes due and before the expiration of 3 years after the date

on which any part of the tax was paid. For exceptions and additional rules, see subsections (b) and (c) of section 6501 of the Internal Revenue Code.

(b) No proceeding in court without assessment for the collection of any tax shall be begun after the expiration of the applicable period for the assessment of such tax.

(26 U.S.C. 6501)

§ 70.80 Time return deemed filed for purposes of determining limitations.

(a) *Early Return.* Any return filed prior to the last day prescribed by law or regulations for the filing thereof (determined without regard to any extension of time for filing) shall be considered as filed on such last day.

(b) *Returns executed by regional directors (compliance) or other ATF officers.* The execution of a return by a regional director (compliance) or other authorized officer or employee of the Bureau of Alcohol, Tobacco and Firearms under the authority of section 6020(b) of the Internal Revenue Code shall not start the running of the statutory period of limitations on assessment and collection.

(26 U.S.C. 6501)

§ 70.81 Exceptions to general period of limitations on assessment and collection.

(a) *False return.* In the case of a false or fraudulent return with intent to evade any tax, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time after such false or fraudulent return is filed.

(b) *Willful attempt to evade tax.* In the case of a willful attempt in any manner to defeat or evade any tax imposed by Subtitle E of the Internal Revenue Code (or any provision of Subtitle F which relates to Subtitle E), the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

(c) *No return.* In the case of a failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time after the date prescribed for filing the return.

(d) *Extension by agreement.* The time prescribed by section 6501 for the assessment of any tax imposed by Subtitle E of the Internal Revenue Code (or any provision of Subtitle F which relates to Subtitle E) may, prior to the expiration of such time, be extended for any period of time agreed upon in writing by the taxpayer and the regional director (compliance). The extension shall become effective when the agreement has been executed by both

parties. The period agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(26 U.S.C. 6501)

Limitations on Credit or Refund

§ 70.82 Period of limitation on filing claim.

(a) In the case of any tax (other than a tax payable by stamp):

(1) If a return is filed, a claim for credit or refund of an overpayment must be filed by the taxpayer within 3 years from the time the return was filed or within 2 years from the time the tax was paid, whichever of such periods expires the later.

(2) If no return is filed, the claim for credit or refund of an overpayment must be filed by the taxpayer within 2 years from the time the tax was paid.

(b) In the case of any tax payable by means of a stamp, a claim for credit or refund of an overpayment of such tax must be filed by the taxpayer within 3 years from the time the tax was paid. For provisions relating to redemption of unused stamps, see section 6805 of the Internal Revenue Code.

(c) For limitations on allowance of credit or refund, special rules, and exceptions, see subsections (b) and (c) of section 6511 of the Internal Revenue Code. For rules as to time return is deemed filed and tax considered paid, see section 6513 of the Internal Revenue Code.

(26 U.S.C. 6511)

§ 70.83 Limitations on allowance of credits and refunds.

(a) *Effect of filing claim.* Unless a claim for credit or refund of an overpayment is filed within the period of limitation prescribed in section 6511(a), no credit or refund shall be allowed or made after the expiration of such period.

(b) *Limit on amount to be credited or refunded.* In the case of any tax (other than a tax payable by stamp):

(1) If a return was filed, and a claim is filed within 3 years from the time the return was filed, the amount of the credit or refund shall not exceed the portion of the tax paid within the period, immediately preceding the filing of the claim, equal to 3 years plus the period of any extension of time for filing the return.

(2) If a return was filed, and a claim is filed after the 3 year period described in paragraph (b)(1) of this section, but within 2 years from the time the tax was paid, the amount of the credit or refund shall not exceed the portion of the tax paid within the 2 years immediately preceding the filing of the claim.

(3) If no return was filed, but a claim is filed, the amount of the credit or refund shall not exceed the portion of the tax paid within the 2 years immediately preceding the filing of the claim.

(4) If no claim is filed, the amount of the credit or refund allowed or made by the regional director (compliance) shall not exceed the amount that would have been allowable under the preceding subparagraphs if a claim had been filed on the date the credit or refund is allowed.

(c) *In the case of a tax payable by stamp.* (1) If a claim is filed, the amount of the credit or refund shall not exceed the portion of the tax paid within the 3 years immediately preceding the filing of the claim.

(2) If no claim is filed, the amount of the credit or refund allowed or made by the regional director (compliance) shall not exceed the portion of the tax paid within the 3 years immediately preceding the allowance of the credit or refund. For provisions relating to redemption of unused stamps, see section 6805 of the Internal Revenue Code.

(26 U.S.C. 6511)

§ 70.84 Special rules applicable in case of extension of time by agreement.

(a) *Scope.* If, within the period prescribed in section 6511(a) of the Internal Revenue Code for the filing of a claim for credit or refund, an agreement extending the period for assessment of a tax has been made in accordance with the provisions of section 6501(c)(4) of the Internal Revenue Code, the special rules provided in this section become applicable. This section shall not apply to any claim filed, or credit or refund allowed if no claim is filed, either (1) prior to the execution of an agreement extending the period in which assessment may be made, or (2) more than 6 months after the expiration of the period within which an assessment may be made pursuant to the agreement or any extension thereof.

(b) *Period in which claim may be filed.* Claim for credit or refund of an overpayment may be filed, or credit or refund may be allowed if no claim is filed, at any time within which an assessment may be made pursuant to an agreement, or any extension thereof, under section 6501(c)(4), and for 6 months thereafter.

(c) *Limit on amount to be credited or refunded.* (1) If a claim is filed within the time prescribed in paragraph (b) of this section, the amount of the credit or refund allowed or made shall not exceed the portion of the tax paid after the execution of the agreement and before

the filing of the claim, plus the amount that could have been properly credited or refunded under the provisions of section 6511(b)(2) if a claim had been filed on the date of the execution of the agreement.

(2) If no claim is filed, the amount of credit or refund allowed or made within the time prescribed in paragraph (b) of this section shall not exceed the portion of the tax paid after the execution of the agreement and before the making of the credit or refund, plus the amount that could have been properly credited or refunded under the provisions of section 6511(b)(2) if a claim had been filed on the date of the execution of the agreement.

(d) *Effective date of agreement.* The agreement referred to in this section shall become effective when signed by the taxpayer and the regional director (compliance).

(26 U.S.C. 6511)

§ 70.85 Time return deemed filed and tax considered paid.

For purposes of section 6511 of the Internal Revenue Code, a return filed before the last day prescribed by law or regulations for the filing thereof shall be considered as filed on such last day. For purposes of section 6511(b)(2) and (c), payment of any portion of the tax made before the last day prescribed for payment shall be considered made on such last day. An extension of time for filing a return or for paying any tax shall not be given any effect in determining under this section the last day prescribed for filing a return or paying any tax.

(26 U.S.C. 6513)

§ 70.86 Credits or refunds after period of limitation.

(a) A refund of any portion of any internal revenue tax (or any interest, additional amount, addition to the tax, or assessable penalty) shall be considered erroneous and a credit of any such portion shall be considered void:

(1) If made after the expiration of the period of limitation prescribed by section 6511 of the Internal Revenue Code for filing claim therefor, unless prior to the expiration of such period claim was filed, or

(2) In the case of a timely claim, if the credit or refund was made after the expiration of the period of limitation prescribed by section 6532(a) for the filing of suit, unless prior to the expiration of such period, suit was begun.

(b) For procedure by the United States to recover erroneous refunds, see

sections 6532(b) and 7405 of the Internal Revenue Code.

(26 U.S.C. 6514)

§ 70.87 Credit against barred liability.

Any credit against a liability in respect of any taxable year shall be void if the collection of such liability would be barred by the applicable statute of limitations at the time such credit is made.

(26 U.S.C. 6514)

Periods of Limitation in Judicial Proceedings

§ 70.88 Periods of limitation on suits by taxpayers.

(a) No suit or proceeding under section 7422(a) of the Internal Revenue Code for the recovery of any internal revenue tax, penalty, or other sum shall be begun until whichever of the following first occurs:

(1) The expiration of 6 months from the date of the filing of the claim for credit or refund, or

(2) A decision is rendered on such claim prior to the expiration of 6 months after the filing thereof. Except as provided in paragraph (b) of this section, no suit or proceeding for the recovery of any internal revenue tax, penalty, or other sum may be brought after the expiration of 2 years from the date of mailing, by either registered or certified mail, by a regional director (compliance) to a taxpayer of a notice of disallowance of the part of the claim to which the suit or proceeding relates.

(b) The 2-year period described in paragraph (a) of this section may be extended if an agreement to extend the running of the period of limitations is executed. The agreement must be signed by the taxpayer or by an attorney, agent, trustee, or other fiduciary on behalf of the taxpayer. If the agreement is signed by a person other than the taxpayer, it shall be accompanied by an authenticated copy of the power of attorney or other legal evidence of the authority of such person to act on behalf of the taxpayer. If the taxpayer is a corporation, the agreement should be signed with the corporate name followed by the signature of a duly authorized officer of the corporation. The agreement will not be effective until signed by a regional director (compliance).

(c) The taxpayer may sign a waiver of the requirement that the taxpayer be mailed a notice of disallowance. Such waiver is irrevocable and will commence the running of the 2-year period described in paragraph (a) of this

section on the date the waiver is filed. The waiver shall set forth:

(1) The type of tax and the taxable period covered by the taxpayer's claim for refund;

(2) The amount of the claim;

(3) The amount of the claim disallowed;

(4) A statement that the taxpayer agrees the filing of the waiver will commence the running of the 2-year period provided for in section 6532(a)(1) as if a notice of disallowance had been sent the taxpayer by either registered or certified mail.

The filing of such a waiver prior to the expiration of 6 months from the date the claim was filed does not permit the filing of a suit for refund prior to the time specified in section 6532(a)(1) and paragraph (a) of this section.

(d) Any consideration, reconsideration, or other action with respect to a claim after the mailing, by either registered or certified mail, of a notice of disallowance or after the execution of a waiver referred to in paragraph (c) of this section, shall not extend the period for bringing suit or other proceeding under section 7422(a) of the Internal Revenue Code.

(26 U.S.C. 6532)

§ 70.89 Periods of limitation on suits by the United States.

The United States may not recover any erroneous refund by civil action under section 7405 of the Internal Revenue Code unless such action is begun within 2 years after the making of such refund. However, if any part of the refund was induced by fraud or misrepresentation of a material fact, the action to recover the erroneous refund may be brought at any time within 5 years from the date the refund was made.

(26 U.S.C. 6532)

Interest

§ 70.90 Interest on underpayments.

(a) *General rule.* Interest at the underpayment rate referred to in the regulations at 26 CFR 301.6621-1 shall be paid on any unpaid amount of tax from the last date prescribed for payment of the tax (determined without regard to any extension of time for payment) to the date on which payment is received.

(b) *Interest on penalties, additional amounts, or additions to the tax—* (1) *General.* Interest shall be imposed on any assessable penalty, additional amount, or addition to the tax (other than an addition to tax imposed under section 6651(a)(1) of the Internal Revenue Code) only if such assessable penalty, additional amount, or addition

to the tax is not paid within 10 days from the date of notice and demand therefor, and in such case interest shall be imposed only for the period from the date of the notice and demand to the date of payment.

(2) *Interest on certain additions to tax.* Interest shall be imposed under this section on any addition to tax imposed by section 6651(a)(1) of the Internal Revenue Code for the period which (i) begins on the date on which the return of the tax with respect to which such addition to tax is imposed is required to be filed (including any extensions), and (ii) ends on the date of payment of such addition to tax.

(c) *Payments made within 10 days after notice and demand.* If notice and demand is made for payment of any amount, and if such amount is paid within 10 days after the date of such notice and demand, interest under this section on the amount so paid shall not be imposed for the period after the date of such notice and demand.

(d) *Satisfaction by credits.* If any portion of a tax is satisfied by credit of an overpayment, then no interest shall be imposed under section 6601 of the Internal Revenue Code on the portion of the tax so satisfied for any period during which, if the credit had not been made, interest would have been allowable with respect to such overpayment.

(e) *Last date prescribed for payment.*

(1) In determining the last date prescribed for payment, any extension of time granted for payment of tax shall be disregarded. The granting of an extension of time for the payment of tax does not relieve the taxpayer from liability for the payment of interest thereon during the period of the extension. Thus, except as provided in paragraph (d) of this section, interest at the underpayment rate referred to in the regulations at 26 CFR 301.6621-1 is payable on any unpaid portion of the tax for the period during which such portion remains unpaid by reason of an extension of time for the payment thereof.

(2) In the case of taxes payable by stamp and in all other cases where the last date for payment of the tax is not otherwise prescribed, such last date for the purpose of the interest computation shall be deemed to be the date on which the liability for the tax arose. However, such last date shall in no event be later than the date of issuance of a notice and demand for the tax.

(26 U.S.C. 6601)

§ 70.91 Interest on erroneous refund recoverable by suit.

Any portion of an internal revenue tax (or any interest, assessable penalty,

additional amount, or addition to tax) which has been erroneously refunded, and which is recoverable by a civil action pursuant to section 7405 of the Internal Revenue Code, shall bear interest at the underpayment rate referred to in the regulations at 26 CFR 301.6621-1 from the date of the payment of the refund.

(26 U.S.C. 6602)

§ 70.92 Interest on overpayments.

(a) *General rule.* Except as otherwise provided, interest shall be allowed on any overpayment of any tax at the overpayment rate referred to in the regulations at 26 CFR 301.6621-1 from the date of overpayment of the tax.

(b) *Date of overpayment.* Except as provided in section 6401(a) of the Internal Revenue Code, relating to assessment and collection after the expiration of the applicable period of limitation, there can be no overpayment of tax until the entire tax liability has been satisfied. Therefore, the dates of overpayment of any tax are the date of payment of the first amount which (when added to previous payments) is in excess of the tax liability (including any interest, addition to the tax, or additional amount) and the dates of payment of all amounts subsequently paid with respect to such tax liability.

(c) *Period for which interest allowable in case of refunds.* If an overpayment of tax is refunded, interest shall be allowed from the date of the overpayment to a date determined by the regional director (compliance) which shall be not more than 30 days prior to the date of the refund check. The acceptance of a refund check shall not deprive the taxpayer of the right to make a claim for any additional overpayment and interest thereon, provided the claim is made within the applicable period of limitation. However, if a taxpayer does not accept a refund check, no additional interest on the amount of the overpayment included in such check shall be allowed.

(d) *Period for which interest allowable in case of credits—* (1) *General rule.* If an overpayment of tax is credited, interest shall be allowed from the date of overpayment to the due date (as determined under paragraph (d)(2) of this section of the amount against which such overpayment is credited.

(2) *Determination of due date—* (i) *General.* The term "due date", as used in this section, means the last day fixed by law or regulations for the payment of the tax (determined without regard to any extension of time), and not the date on which the regional director (compliance) makes demand for the

payment of the tax. Therefore, the due date of the tax is the date fixed for the payment of the tax;

(ii) *Tax not due yet.* If a taxpayer agrees to the crediting of an overpayment against tax and the schedule of allowance is signed prior to the date on which such tax would otherwise become due, then the due date of such tax shall be the date on which such schedule is signed;

(iii) *Assessed interest.* In the case of a credit against assessed interest, the due date is the date of the assessment of such interest;

(iv) *Additional amount, addition to the tax, or assessable penalty.* In the case of a credit against an amount assessed as an additional amount, addition to the tax, or assessable penalty, the due date is the date of the assessment.

(26 U.S.C. 6611)

§ 70.93 Interest rate.

Adjusted interest rates are periodically announced by the Commissioner of Internal Revenue in accordance with section 6621 of the Internal Revenue Code. The regional director (compliance) will provide information, when requested, regarding interest rates applicable to specific time periods.

(26 U.S.C. 6621)

§ 70.94 Interest compounded daily.

In computing the amount of any interest required to be paid under Title 26 of the United States Code by the regional director (compliance) or by the taxpayer, or any other amount determined by reference to such amount of interest, such interest and such amount shall be compounded daily.

(26 U.S.C. 6622)

Additions to the Tax, Additional Amounts, and Assessable Penalties

Additions to the Tax and Additional Amounts

§ 70.95 Scope.

For purposes of the administration of excise taxes by the Bureau of Alcohol, Tobacco and Firearms in accordance with Title 26 of the United States Code, the penalties prescribed in §§ 70.96 through 70.106 shall apply.

§ 70.96 Failure to file tax return or to pay tax.

(a) *Addition to the tax—(1) Failure to file tax return.* In the case of failure to file a return required under authority of,

(i) Chapter 61 of the Internal Revenue Code, relating to returns and records;

(ii) Chapter 51 of the Internal Revenue Code, relating to distilled spirits, wines and beer;

(iii) Chapter 52 of the Internal Revenue Code relating to tobacco products, and cigarette papers and tubes; or

(iv) Chapter 53 of the Internal Revenue Code, relating to machine guns, destructive devices, and certain other firearms; and the regulations thereunder, on or before the date prescribed for filing (determined with regard to any extension of time for such filing), there shall be added to the tax required to be shown on the return the amount specified below unless the failure to file the return within the prescribed time is shown to the satisfaction of the regional director (compliance) to be due to reasonable cause and not to willful neglect. The amount to be added to the tax is 5 percent thereof if the failure is for not more than 1 month, with an additional 5 percent for each additional month or fraction thereof during which the failure continues, but not to exceed 25 percent in the aggregate. The amount of any addition under this subparagraph shall be reduced by the amount of the addition under paragraph (a)(2) of this section for any month to which an addition to tax applies under both paragraphs (a)(1) and (2) of this section.

(2) Failure to pay tax shown on return. In case of failure to pay the amount shown as tax on any return (required to be filed after December 31, 1969, without regard to any extension of time for filing thereof) specified in paragraph (a)(1) of this section, on or before the date prescribed for payment of such tax (determined with regard to any extension of time for payment), there shall be added to the tax shown on the return the amount specified below unless the failure to pay the tax within the prescribed time is shown to the satisfaction of the regional director (compliance) to be due to reasonable cause and not to willful neglect. The amount to be added to the tax is 0.5 percent of the amount of tax shown on the return if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which the failure continues, but not to exceed 25 percent in the aggregate.

(3) Failure to pay tax not shown on return. In case of failure to pay any amount in respect of any tax required to be shown on a return specified in paragraph (a)(1) of this section, which is not so shown (including an assessment made pursuant to section 6213(b)) within 10 days from the date of the notice and demand therefor, there shall be added to the amount stated in the notice and

demand the amount specified below unless the failure to pay the tax within the prescribed time is shown to the satisfaction of the regional director (compliance) to be due to reasonable cause and not to willful neglect. The amount to be added to the tax is 0.5 percent of the amount stated in the notice and demand if the failure is for not more than one month, with an additional 0.5 percent for each additional month or fraction thereof during which the failure continues, but not to exceed 25 percent in the aggregate. The maximum amount of the addition permitted under this subparagraph shall be reduced by the amount of the addition under paragraph (a)(1) of this section, which is attributable to the tax for which the notice and demand is made and which is not paid within 10 days from the date of notice and demand. The preceding sentence applies to amounts assessed on or before December 31, 1986.

(4) For increases in penalties for failure to pay tax in certain cases, see section 6651(d) of the Internal Revenue Code.

(b) *Month defined.* (1) If the date prescribed for filing the return or paying tax is the last day of a calendar month, each succeeding calendar month or fraction thereof during which the failure to file or pay tax continues shall constitute a month for purposes of section 6651.

(2) If the date prescribed for filing the return or paying tax is a date other than the last day of a calendar month, the period which terminates with the date numerically corresponding thereto in the succeeding calendar month and each such successive period shall constitute a month for purposes of section 6651. If, in the month of February, there is no date corresponding to the date prescribed for filing the return or paying tax, the period from such date in January through the last day of February shall constitute a month for purposes of section 6651. Thus, if a return is due on January 30, the first month shall end on February 28 (or 29 if a leap year), and the succeeding months shall end on March 30, April 30, etc.

(3) If a return is not timely filed or tax is not timely paid, the fact that the date prescribed for filing the return or paying tax, or the corresponding date in any succeeding calendar month, falls on a Saturday, Sunday, or legal holiday is immaterial in determining the number of months for which the addition to the tax under section 6651 applies.

(c) *Showing of reasonable cause.* A taxpayer who wishes to avoid the addition to the tax for failure to file a

tax return or pay tax must make an affirmative showing of all facts alleged as a reasonable cause for the taxpayers failure to file such return or pay such tax on time in the form of a written statement containing a declaration that it is made under penalties of perjury. Such statement should be filed with the regional director (compliance) with whom the return is required to be filed. In addition, where special tax returns of liquor dealers are delivered to an ATF officer working under the supervision of the regional director (compliance), such statement may be delivered with the return. If the regional director (compliance) determines that the delinquency was due to a reasonable cause and not to willful neglect, the addition to the tax will not be assessed. If the taxpayer exercised ordinary business care and prudence and was nevertheless unable to file the return within the prescribed time, then the delay is due to a reasonable cause. A failure to pay will be considered to be due to reasonable cause to the extent that the taxpayer has made a satisfactory showing that the taxpayer exercised ordinary business care and prudence in providing for payment of the tax liability and was nevertheless either unable to pay the tax or would suffer an undue hardship (as described in 26 CFR 1.6161-1(b)) if paid on the due date. In determining whether the taxpayer was unable to pay the tax in spite of the exercise of ordinary business care and prudence in providing for payment of a tax liability, consideration will be given to all the facts and circumstances of the taxpayer's financial situation, including the amount and nature of the taxpayer's expenditures in light of the income (or other amounts) the taxpayer could, at the time of such expenditures, reasonably expect to receive prior to the date prescribed for the payment of the tax. Thus, for example, a taxpayer who incurs lavish or extravagant living expenses in an amount such that the remainder of assets and anticipated income will be insufficient to pay the tax, has not exercised ordinary business care and prudence in providing for the payment of a tax liability. Further, a taxpayer who invests funds in speculative or illiquid assets has not exercised ordinary business care and prudence in providing for the payment of a tax liability unless, at the time of the investment, the remainder of the taxpayer's assets and estimated income will be sufficient to pay the tax or it can be reasonably foreseen that the speculative or illiquid investment made by the taxpayer can be utilized (by sale

or as security for a loan) to realize sufficient funds to satisfy the tax liability. A taxpayer will be considered to have exercised ordinary business care and prudence if such taxpayer made reasonable efforts to conserve sufficient assets in marketable form to satisfy a tax liability and nevertheless was unable to pay all or a portion of the tax when it became due.

(d) *Penalty imposed on net amount due*—(1) *Credits against the tax*. The amount of tax required to be shown on the return for purposes of section 6651(a)(1) and the amount shown as tax on the return for purposes of section 6651(a)(2) shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed on the return.

(2) *Partial payments*. (i) The amount of tax required to be shown on the return for purposes of section 6651(a)(2) of the Internal Revenue Code shall, for the purpose of computing the addition for any month, be reduced by the amount of any part of the tax which is paid after the date prescribed for payment and on or before the first day of such month, and

(ii) The amount of tax stated in the notice and demand for purposes of section 6651(a)(3) of the Internal Revenue Code shall, for the purpose of computing the addition for any month, be reduced by the amount of any part of the tax which is paid before the first day of such month.

(e) *No addition to tax if fraud penalty assessed*. No addition to the tax under section 6651 of the Internal Revenue Code shall be assessed with respect to an underpayment of tax if an addition to the tax for fraud is assessed with respect to the same underpayment under section 6653(b). See section 6653(d) of the Internal Revenue Code.

(26 U.S.C. 6651)

§ 70.97 Failure to pay tax.

(a) *Negligence*—(1) *General*. If any part of any underpayment (as defined in paragraph (d) of this section) is due to negligence or disregard of rules or regulations, there shall be added to the tax an amount equal to the sum of 5 percent of the underpayment, and an amount equal to 50 percent of the interest payable under section 6601 of the Internal Revenue Code with respect to the portion of such underpayment which is attributable to negligence for the period beginning on the last date prescribed by law for payment of such underpayment (determined without regard to any extension) and ending on

the date of the assessment of the tax (or if earlier, the date or the payment of the tax).

(2) Underpayment taken into account reduced by a portion attributable to fraud. There shall not be taken into account under paragraph (a) of this section any portion of an underpayment attributable to fraud with respect to which a penalty is imposed under paragraph (b) of this section.

(3) *Negligence*. For purposes of paragraph (a) of this section, the term "negligence" includes any failure to make a reasonable attempt to comply with the provisions of the Internal Revenue Code, and the term "disregard" includes any careless, reckless, or intentional disregard.

(4) The provisions of paragraph (a) apply to returns the due date for which (determined without regard to extensions) is after December 31, 1986.

(b) *Fraud*—(1) *General*. If any part of any underpayment (as defined in paragraph (d) of this section) of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 50 percent of the portion of the underpayment which is attributable to fraud and an amount equal to 50 percent of the interest payable under section 6601 of the Internal Revenue Code with respect to such portion for the period beginning on the last day prescribed by law for payment of such underpayment (determined without regard to any extension) and ending on the date of the assessment of the tax or, if earlier, the date of the payment of the tax.

(2) The provisions of paragraph (b) of this section, apply to returns the due date for which (determined without regard to extensions) is on or before December 31, 1986.

(c) *Fraud*—(1) *General*. If any part of any underpayment (as defined in paragraph (d) of this section) of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to the sum of 75 percent of the portion of the underpayment which is attributable to fraud and an amount equal to 50 percent of the interest payable under section 6601 of the Internal Revenue Code with respect to such portion for the period beginning on the last day prescribed by law for payment of such underpayment (determined without regard to any extension) and ending on the date of the assessment of the tax or, if earlier, the date of the payment of the tax.

(2) Determination of portion attributable to fraud. If the regional director (compliance) establishes that any portion of an underpayment is

attributable to fraud, the entire underpayment shall be treated as attributable to fraud, except with respect to any portion of the underpayment which the taxpayer establishes is not attributable to fraud.

(3) The provisions of this paragraph (c) apply to returns the due date for which (determined without regard to extensions) is after December 31, 1986.

(d) *Definition of underpayment.* For purposes of this section, the term "underpayment" means the amount by which such tax imposed by the Internal Revenue Code exceeds the excess of—

(1) The sum of,

(i) The amount shown as the tax by the taxpayer upon the taxpayer's return (determined without regard to any credit for an overpayment for any prior period, and without regard to any adjustment under authority of sections 6205(a) and 6413(a) of the Internal Revenue Code), if a return was made by the taxpayer within the time prescribed for filing such return (determined with regard to any extension of time for such filing) and an amount was shown as the tax by the taxpayer thereon, plus;

(ii) Any amount, not shown on the return, paid in respect of such tax, over—

(2) *The amount of rebates made.* For purposes of paragraph (d) of this section, the term "rebate" means so much of an abatement, credit, refund, or other repayment, as was made on the ground that the tax imposed was less than the excess of the amount specified in paragraph (d)(1) of this section over the rebates previously made.

(e) *No delinquency penalty if fraud assessed.* If any penalty is assessed under paragraph (b) or (c) of this section (relating to fraud) for an underpayment of tax which is required to be shown on a return, no penalty under section 6651 of the Internal Revenue Code (relating to failure to file such return or pay tax) shall be assessed with respect to the portion of the underpayment which is attributable to fraud.

(f) *Failure to pay stamp tax.* Any person who willfully fails to pay any tax which is payable by stamp or willfully attempts in any manner to evade or defeat any such tax or payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty of 50 percent of the total amount of the underpayment of the tax.

(g) *Additional penalty.* For additional penalty for failure to pay certain liquor and tobacco taxes, see 27 CFR 70.102.

(26 U.S.C. 6653)

§ 70.98 Penalty for underpayment of deposits.

(a) *General rule.* If any person is required by the Internal Revenue Code or regulations prescribed thereunder to deposit any tax in a government depository that is authorized under section 6302(c) of the Internal Revenue Code to receive the deposit, and fails to deposit the tax within the time prescribed therefor, a penalty shall be imposed on such person unless the failure is shown to be due to reasonable cause and not due to willful neglect. The penalty shall be 5 percent of the amount of the underpayment without regard to the period during which the underpayment continues, except that, for penalties assessed after October 21, 1986, the penalty shall be 10 percent of the amount of the underpayment. For purposes of this section, the term "underpayment" means the amount of tax required to be deposited less the amount, if any, that was deposited on or before the date prescribed therefor. Section 7502(e) of the Internal Revenue Code applies in determining the date a deposit is made.

(b) *Assertion of reasonable cause.* To show that the underpayment was due to reasonable cause and not due to willful neglect, a taxpayer must make an affirmative showing of all facts alleged as a reasonable cause in a written statement containing a declaration that it is made under the penalties of perjury. The statement must be filed with the regional director (compliance) of the region in which the taxpayer is located. If the regional director (compliance) determines that the underpayment was due to reasonable cause and not due to willful neglect, the penalty will not be imposed.

(26 U.S.C. 6656)

§ 70.99 Penalty for overstated deposit claims.

(a) *General rule.* Any person who makes an overstated deposit claim on a return is subject to a penalty equal to 25 percent of such claim, unless it is shown that the overstated deposit claim is due to reasonable cause and not due to willful neglect. This penalty is in addition to any other penalty provided by law, such as the penalty provided by section 6656(a) of the Internal Revenue Code, relating to underpayment of deposits.

(b) *Overstated deposit claim.* An overstated deposit claim is the excess of—

(1) The amount of any internal revenue tax for any period that a person claims, in a return (including an amended return) filed after August 13, 1981, to have deposited in a government

depository authorized under section 6302(c) of the Internal Revenue Code to receive the deposit, over

(2) The aggregate amount for that period that the person has deposited, on or before the date such return for that period is filed, in a government depository authorized under section 6302(c) to receive the deposit. An overstated deposit claim includes a claim that deposits have been made when no deposits have been made in an authorized government depository. The existence or amount of an overstated deposit claim is not limited even though the amount described in paragraph (b)(1) of this section or the amount described in paragraph (b)(2) of this section exceeds the actual tax liability. For purposes of this paragraph, the date a return is considered to be filed is the later of the date the return is due to be filed (not including extensions) or the date the return is actually filed. Section 7502(e) of the Internal Revenue Code applies in determining the date a deposit is made.

(c) *Assertion of reasonable cause.* To show that an overstated deposit claim was due to reasonable cause and not due to willful neglect, a taxpayer must make an affirmative showing of all facts alleged as a reasonable cause in a written statement containing a declaration that is made under the penalties of perjury. The statement must be filed with the regional director (compliance) of the region in which the taxpayer is located. If the regional director (compliance) determines that the overstated deposit claim was due to reasonable cause and was not due to willful neglect, the penalty will not be imposed. The fact that a correct amended return has been filed may in some cases be evidence that an overstated deposit claim on the original return was due to reasonable cause and not due to willful neglect, but is not determinative of that issue.

(26 U.S.C. 6656)

§ 70.100 Bad checks.

If any check or money order in payment of any amount receivable under Title 26 of the United States Code is not duly paid, in addition to any other penalties provided by law, there shall be paid as a penalty by the person who tendered such check, upon notice and demand, in the same manner as tax, an amount equal to 1 percent of the amount of such check, except that if the amount of such check is less than \$500, the penalty under this section shall be \$5 or the amount of such check, whichever is the lesser. This section shall not apply if the person establishes to the satisfaction

of the regional director (compliance) that such check was tendered in good faith and that such person had reasonable cause to believe that such check would be duly paid.

(26 U.S.C. 6657)

§ 70.101 Coordination with Title 11.

(a) *Certain failures to pay tax.* No addition to the tax shall be made under section 6651 of the Internal Revenue Code for failure to make timely payment of tax with respect to a period during which a case is pending under Title 11 of the United States Code—

(1) If such tax was incurred by the estate and the failure occurred pursuant to an order of the court finding probable insufficiency of funds of the estate to pay administrative expenses, or

(2) If such tax was incurred by the debtor before the earlier of the order for relief or (in the involuntary case) the appointment of a trustee and

(i) The petition was filed before the due date prescribed by law (including extensions) for filing a return of such tax, or

(ii) The date for making the addition to the tax occurs on or after the day on which the petition was filed.

(b) *Exception for collected taxes.* Paragraph (a) of this section shall not apply to any liability for an addition to the tax which arises from the failure to pay or deposit a tax withheld or collected from others and required to be paid to the United States.

(26 U.S.C. 6658)

§ 70.102 Failure to pay tax.

Whoever fails to pay any tax imposed by part I of Subchapter A of Chapter 51 of the Internal Revenue Code (liquor taxes) or by Chapter 52 (tobacco taxes) at the time prescribed shall, in addition to any other penalty provided in the Internal Revenue Code, be liable to a penalty of 5 percent of the tax due but unpaid. For additional penalties for failure to pay tax, see 27 CFR 70.97.

(26 U.S.C. 5684(a) and 5761(b))

Assessable Penalties

§ 70.103 Rules for application of assessable penalties.

(a) *Penalty assessed as tax.* The penalties and liabilities provided by Subchapter B, Chapter 68, of the Internal Revenue Code shall be assessed and collected in the same manner as taxes. Except as otherwise provided, any reference in the Internal Revenue Code to "tax" imposed thereunder shall also be deemed to refer to the penalties and liabilities provided by Subchapter B of Chapter 68.

(b) *Person defined.* For purposes of Subchapter B of Chapter 68 of the Internal Revenue Code, the term "person" includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(26 U.S.C. 6671)

§ 70.104 Failure to collect and pay over tax, or attempt to evade or defeat tax.

Any person required to collect, truthfully account for, and pay over any tax imposed by the Internal Revenue Code who willfully fails to collect such tax, or truthfully account for and pay over such tax, or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties, be liable to a penalty equal to the total amount of the tax evaded, or not collected, or not accounted for and paid over. The penalty imposed by section 6672 of the Internal Revenue Code applies only to the collection, accounting for, or payment over of taxes imposed on a person other than the person who is required to collect, account for, and pay over such taxes. No penalty under section 6653 of the Internal Revenue Code, relating to failure to pay tax, shall be imposed for any offense to which this section is applicable.

(26 U.S.C. 6672)

§ 70.105 Penalty for failure to supply taxpayer identification number.

(a) *In general.* Except as provided in paragraph (b) of this section, any person who is required by the regulations under section 6109 of the Internal Revenue Code to include the taxpayer identification number in any return, statement, or other document, fails to comply with such requirement at the time prescribed by such regulations, such person shall pay a penalty of \$5 for each such failure, except that the total amount imposed on such person for all such failures during any calendar year shall not exceed \$50,000. For returns having a due date (determined without regard to extensions) after December 31, 1986, the total amount imposed on such person for all such failures during any calendar year shall not exceed \$100,000. Such penalty shall be paid in the same manner as tax upon the issuance of a notice and demand therefor.

(b) *Reasonable cause.* If any person who is required by the regulations under section 6109 of the Internal Revenue Code to supply a taxpayer identification number fails to comply with such

requirement at the time prescribed by such regulations, but establishes to the satisfaction of the regional director (compliance) that such failure was due to reasonable cause, the penalty set forth in paragraph (a) of this section shall not apply.

(c) *Persons required to supply taxpayer identification numbers.* For regulations under section 6109 of the Internal Revenue Code relating to persons required to supply an identifying number, see the regulations relating to the particular tax.

(26 U.S.C. 6676)

§ 70.106 Penalties for aiding and abetting understatement of tax liability.

(a) *Imposition of penalty.* Any person—

(1) Who aids or assists in, procures, or advises with respect to, the preparation or presentation of any portion of a return, affidavit, claim, or other document in connection with any matter arising under the internal revenue laws,

(2) Who knows that such portion will be used in connection with any material matter arising under the internal revenue laws, and

(3) Who knows that such portion (if so used) will result in an understatement of the liability for tax of another person, shall pay a penalty with respect to each such document in the amount determined under paragraph (b).

(b) *Amount of penalty—(1) General.* Except as provided in paragraph (b)(2) of this section, the amount of the penalty imposed by paragraph (a) of this section shall be \$1,000.

(2) *Corporations.* If the return, affidavit, claim, or other document relates to the tax liability of a corporation, the amount of the penalty imposed by paragraph (a) of this section shall be \$10,000.

(3) *Only one penalty per person per period.* If any person is subject to a penalty under paragraph (a) of this section with respect to any document relating to any taxpayer for any taxable period (or where there is no taxable period, any taxable event), such person shall not be subject to a penalty under paragraph (a) of this section with respect to any other document relating to such taxpayer for such taxable period (or event).

(c) *Activities of subordinates—(1) General.* For purpose of paragraph (a) of this section, the term "procures" includes,

(i) Ordering (or otherwise causing) a subordinate to do an act, and
(ii) Knowing of, and not attempting to

prevent, participation by a subordinate in an act.

(2) For purposes of paragraph (c)(1) of this section, the term "subordinate" means any other person (whether or not a director, officer, employee, or agent of the taxpayer involved) over whose activities the person has direction, supervision, or control.

(d) *Taxpayer not required to have knowledge.* Paragraph (a) shall apply whether or not the understatement is with the knowledge or consent of the persons authorized or required to present the return, affidavit, claim, or other document.

(e) *Certain actions not treated as aid or assistance.* For purposes of paragraph (a)(1) of this section, a person furnishing typing, reproducing, or other mechanical assistance with respect to a document shall not be treated as having aided or assisted in the preparation of such document by reason of such assistance.

(f) *Penalty in addition to other penalties.* The penalty imposed by this section shall be in addition to any other penalty provided by law.

(26 U.S.C. 6701)

General Provisions Relating to Stamps, Marks, or Labels

§ 70.107 Authority for establishment, alteration, and distribution of stamps, marks, or labels.

The Director may establish, and from time to time alter, renew, replace, or change the form, style, character, material, and device of any stamp, mark, or label under any provision of the law relating to Subtitle E of the Internal Revenue Code (or to any provision of Subtitle F which relates to Subtitle E).

(26 U.S.C. 6801)

Jeopardy Assessment

§ 70.108 Jeopardy assessment of alcohol, tobacco, and firearms taxes.

(a) If the regional director (compliance) believes that the collection of any tax imposed under Subtitle E of the Internal Revenue Code (or any provision of Subtitle F which relates to Subtitle E) will be jeopardized by delay, the regional director (compliance) shall, whether or not the time otherwise prescribed by law for filing the return or paying such tax has expired, immediately assess such tax, together with all interest, additional amounts and additions to the tax provided by law. A regional director (compliance) will make an assessment under this section if collection is determined to be in jeopardy because at least one of the conditions described in 26 CFR 1.6851-1(a)(1) (i), (ii), or (iii) (relating to termination assessments) exists.

(b) The tax, interest, additional amounts, and additions to the tax will, upon assessment, become immediately due and payable, and the regional director (compliance) shall, without delay, issue a notice and demand for payment thereof in full.

(c) See section 7429 of the Internal Revenue Code with respect to requesting the regional director (compliance) to review the making of the jeopardy assessment.

(d) For provisions relating to stay of collection of jeopardy assessments, see 26 CFR 301.6863-1.

(26 U.S.C. 6862 and 6863)

Registration

§ 70.109 Registration of persons paying a special tax.

(a) *Persons required to register.* Every person engaged in a trade or business in respect of which a special tax is imposed by one of the following sections of the Internal Revenue Code is required to register with the Bureau of Alcohol, Tobacco and Firearms.

(1) Section 5091 (relating to special tax on brewers);

(2) Section 5111 (relating to special tax on wholesale dealers in liquors and wholesale dealers in beer);

(3) Section 5121 (relating to special tax on retail dealers in liquors and retail dealers in beer); or

(4) Section 5802 (relating to importers, manufacturers and dealers of National Firearms Act weapons). For provisions with respect to the registration of persons subject to the special tax imposed by section 5131, relating to the tax on persons claiming drawback on distilled spirits used in the manufacture of certain nonbeverage products, see section 5132 of the Internal Revenue Code and 27 CFR Part 197 (Regulations on Drawback on Distilled Spirits Used in Manufacturing Nonbeverage Products).

(b) *Procedure for registration.* The registration required of a person by reason of the person being engaged in a trade or business in respect of which one of the special taxes listed in paragraphs (a) (1) to (3) of this section is imposed shall be accomplished by executing and filing, in accordance with the instructions relating thereto, ATF F 5630.5, Annual Special Tax Registration and Return.

(26 U.S.C. 7011)

Para. 26. Subpart F is added immediately following the regulations in Subpart E to read as follows:

Subpart F—Procedural Rules Relating to Alcohol, Tobacco, Firearms, and Explosives

Provisions Relating to Distilled Spirits, Wines, and Beer

Sec.

70.111 Imposition of taxes, qualification requirements, and regulations.

70.112 Excise taxes.

70.113 Claims.

70.114 Preparation and filing of claims.

70.115 Offers in compromise.

70.116 Application for approval of interlocking directors and officers under section 8 of the Federal Alcohol Administration Act.

70.117 Rulings.

70.118 Conferences.

70.119 Representatives.

70.120 Forms.

Provisions Relating to Tobacco Products, and Cigarette Papers and Tubes

70.131 Imposition of taxes; regulations.

70.132 Qualification and bonding requirements.

70.133 Collection of taxes.

70.134 Assessments.

70.135 Claims.

70.136 Offers in compromise.

70.137 Rulings.

70.138 Forms.

Provisions Relating to Firearms and Explosives

70.141 Applicable laws.

70.142 Taxes relating to machine guns, destructive devices, and certain other firearms.

70.143 Commerce in firearms and ammunition.

70.144 Importation of arms, ammunition, and implements of war.

70.145 Commerce in explosives.

70.146 Rulings.

70.147 Assessments.

70.148 Claims.

70.149 Offers in compromise.

Seized Property

70.150 Seizure and forfeiture of personal property.

Offers in Compromise

70.151 Offers in compromise.

Rulings

70.152 Rulings.

Subpart F—Procedural Rules Relating to Alcohol, Tobacco, Firearms, and Explosives

Provisions Relating to Distilled Spirits, Wines, and Beer

§ 70.111 Imposition of taxes, qualification requirements, and regulations.

(a) *Imposition of taxes.* Subchapter A of Chapter 51 of the Internal Revenue Code of 1954 imposes taxes on distilled spirits (including alcohol), wine and beer. Occupational taxes are imposed upon brewers, dealers in liquors, and as a prerequisite for drawback under

section 5134 of the Internal Revenue Code, upon manufacturers of nonbeverage products.

(b) *Qualification requirements.*

Distillers, winemakers, brewers, warehousemen, rectifiers, bottlers, dealers in specially denatured alcohol, users of tax-free and specially denatured alcohol, and wholesalers and importers of liquors, are required to qualify with ATF usually by filing notice or application and bond with, and procuring permit from, the regional director (compliance), of the ATF region in which operations are to be conducted. Detailed information respecting such qualification, including the forms to be used and the procedure to be followed, is contained in the respective regulations described in paragraph (c) of this section.

(c) *Regulations.* The procedural requirements with respect to matters relating to distilled spirits, wines, and beer which are within the jurisdiction of the ATF are published in the regulations described in this paragraph. These regulations contain full information as to the general course and method by which the functions concerning liquors are channeled and determined, including the nature and requirements of formal and informal procedures, the forms, records, reports, and other documents required, and the contents of applications, notices, registrations, permits, bonds, and other documents. Supplies of prescribed forms may be obtained from the office of any regional director (compliance). ATF Publication 1322.1, which contains a listing of alcohol, tobacco, and firearms public-use forms, may be obtained from the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153. The following is a brief description of the several regulations arranged according to the principal subjects and operations concerned:

(1) *Establishment and operation of distilled spirits plants.* Part 19 of Title 27 CFR contains the regulations relating to the location, qualification, construction, arrangement, equipment, and operations (including activities incident thereto) of distilled spirits plants for the production and/or warehousing (including denaturation), and bottling (including bottling in bond) of distilled spirits. Part 19 also contains the regulations relating to distilled spirits for fuel use and the production of vinegar by the vaporizing process.

(2) *Miscellaneous liquor transactions.* Part 170 of Title 27 CFR contains miscellaneous regulations relative to:

(i) Returns and records of the disposition of articles from which distilled spirits may be recovered, or

substances of the character used in the manufacture of distilled spirits, and of containers of the character used for the packaging of distilled spirits;

(ii) Refunds of tax and duty paid on distilled spirits, wines, and beer lost as a result of floods, hurricanes, or other disasters;

(iii) Application of section 6423, Internal Revenue Code of 1954, as amended, to refund or credit of tax on distilled spirits, wines, and beer;

(iv) Manufacture, removal, and use of stills and condensers, and to the notice, registration, and recordkeeping requirements therefor;

(v) Manufacture and sale of certain compounds, preparations, and products containing alcohol;

(vi) Floor stocks tax on distilled spirits and imported perfumes held for sale on October 1, 1985; and

(vii) Temporary regulations respecting the withdrawal free of tax from bonded wine cellars, of wine, or wine products made from wine, when rendered unfit for beverage use.

(3) [Reserved]

(4) *Gauging of distilled spirits.* Part 30 of Title 27 CFR contains the regulations that prescribe the gauging instruments, and methods or techniques to be used in measuring distilled spirits (including denatured spirits). Tables are provided for use in making the necessary computation from gauge data.

(5) *Rules of practice in permit proceedings.* Part 200 of Title 27 CFR contains the rules governing the procedure and practice in connection with the disapproval of applications for basic permits, and for the issuance of citations for the suspension, revocation, and annulment of such permits under sections 3 and 4 of the Federal Alcohol Administration Act (27 U.S.C. 201 *et seq.*), and disapproval, suspension, and revocation of industrial use, operating, withdrawal, and tobacco permits under the Internal Revenue Code. Such rules also govern, insofar as applicable, any adversary proceeding involving adjudication required by statute to be determined on the record, after opportunity for hearing, under laws administered by the Bureau of Alcohol, Tobacco and Firearms.

(6) *Basic permit requirements under the Federal Alcohol Administration Act.* 27 CFR Part 1, issued pursuant to the Federal Alcohol Administration Act, as amended, contains the requirements relative to the issuance under the Act of basic permits to producers, rectifiers, blenders, bottlers, warehousemen, importers, and wholesalers of distilled spirits, wine, or beer, and the amendment, duration, revocation,

suspension, or annulment of such permits.

(7) *Bulk sales and bottling of distilled spirits.* 27 CFR Part 3, issued under the Federal Alcohol Administration Act, as amended, contains the requirements relative to bulk sales and bottling of distilled spirits under the Federal Alcohol Administration Act, including the terms of warehouse receipts for distilled spirits in bulk.

(8) *Labeling and advertising of distilled spirits.* 27 CFR Part 5, issued under the Federal Alcohol Administration Act, as amended, contains the requirements relative to the labeling and advertising of distilled spirits under the Federal Alcohol Administration Act, including standards of identity for distilled spirits, standards of fill for bottles of distilled spirits, withdrawal of bottled imported distilled spirits from customs custody, and the issuance of certificates of label approval and certificates of exemption from label approval.

(9) *American viticultural areas.* Part 9 of Title 27 CFR contains the regulations that relate to American viticultural areas. The viticultural areas described in these regulations are approved for use as appellations of origin in accordance with 27 CFR Part 4.

(10) *Production and removal of wine.* Part 240 of Title 27 CFR contains the regulations relative to the establishment and operation of bonded wine cellars, including bonded wineries, for the production, cellar treatment, and storage of wines, including amelioration, sweetening, addition of volatile fruit flavor concentrates, addition of wine spirits (including distillates containing aldehydes), blending, and other cellar treatment; removals; taxpayment; return of unmerchanted taxpaid wine; use of wine for distilling material and manufacture of vinegar; and record and report requirements.

(11) *Bottling or Packaging of taxpaid wine.* Part 231 of Title 27 CFR contains the regulations relative to the establishment, qualification, and operations of taxpaid wine bottling houses on premises other than those of a plant operated under Part 19 of Title 27 CFR, and to the bottling and packaging of taxpaid United States and foreign wines at such premises.

(12) *Nonindustrial use of distilled spirits and wine.* 27 CFR Part 2, issued under the Federal Alcohol Administration Act, as amended, specifies what uses of distilled spirits and wine are considered "nonindustrial," as that term is used in section 17 of the Federal Alcohol Administration Act.

(13) *Labeling and advertising of wine.* 27 CFR Part 4, issued under the Federal Alcohol Administration Act, as amended, contains the requirements relative to the labeling and advertising of wine under the Federal Alcohol Administration Act, including standards of identity for wine, standards of fill for containers of wine, the withdrawal of imported wine from customs custody, and the issuance of certificates of label approval and certificates of exemption from label approval.

(14) *Establishment and operations of breweries and experimental breweries.* Part 25 of Title 27 CFR contains the regulations relating to the production (including concentration and reconstitution incident thereto) and removal of beer and cereal beverages. The regulations cover the location, construction, equipment, and operations of breweries; and the qualification of such establishments, including the ownership, control, and management thereof, and the establishment and operations of experimental breweries.

(15) *Labeling and advertising of malt beverages.* 27 CFR Part 7, issued under the Federal Alcohol Administration Act, as amended, contains the requirements relative to the labeling and advertising of malt beverages (beer) under the Federal Alcohol Administration Act, including withdrawal of imported malt beverages from customs custody, and the issuance of certificates of label approval.

(16) *Liquor dealers.* Part 194 of Title 27 CFR contains the regulations relative to the special (occupational) taxes imposed on wholesale and retail dealers in liquors, wholesale and retail dealers in beer, and limited retail dealers; restrictions on purchases of distilled spirits; reuse or refilling of liquor bottles; sale or possession of refilled or used liquor bottles; repackaging of alcohol for industrial use; recordkeeping and reporting requirements; and provisions relating to entry of premises and inspection of records by ATF officers.

(17) *Drawback of tax on spirits used in nonbeverage products.* Part 197 of Title 27 CFR contains the regulations which relate to obtaining drawback of internal revenue tax on distilled spirits used in the manufacture or production of medicines, medicinal preparations, food products, flavors, or flavoring extracts, which are unfit for beverage purposes.

(18) *Production of volatile fruit-flavor concentrates.* Part 18 of Title 27 CFR contains the regulations relating to the manufacture, removal, sale, storage, transfer in bond, transportation, recordkeeping and reporting requirements, and use of volatile fruit flavor concentrates. It includes

provisions regarding the location, qualification, use, and operations of concentrate plants.

(19) *"Tied-House."* 27 CFR Part 6, issued under the Federal Alcohol Administration Act, as amended, specifies practices which are prohibited by subsection (b) of section 5 of the Act and provides the exception to these prohibitions. This part applies only to transactions between industry members and retailers.

(20) *Exclusive outlets.* 27 CFR Part 8, issued under the Federal Alcohol Administration Act, as amended, specifies practices which are prohibited by subsection (a) of section 5 of the Act. This part applies only to transactions between industry members and retailers.

(21) *Commercial bribery.* 27 CFR Part 10, issued under the Federal Alcohol Administration Act, as amended, specifies practices which are prohibited by subsection (c) of section 5 of the Act. This part applies to transactions between industry members and employees, officers, or representatives of trade buyers.

(22) *Consignment sales.* 27 CFR Part 11, issued under the Federal Alcohol Administration Act, as amended, specifies sales arrangements prohibited by subsection (d) of section 5 of the Act and contains guidelines concerning the return of distilled spirits, wines, and malt beverages from a trade buyer. The regulations in this part apply to transactions between industry members and trade buyers.

(23) *Distribution and use of denatured alcohol and rum.* Part 20 of Title 27 CFR contains the regulations relating to the procurement, use, disposition, and recovery of denatured alcohol, specially denatured rum, and articles containing denatured spirits; and includes requirements in respect to industrial use and withdrawal permits; and the packaging, labeling, sales, rebottling, and reprocessing of articles containing specially denatured spirits.

(24) *Formulas for denatured alcohol and rum.* Part 21 of Title 27 CFR contains the regulations relating to the formulation of completely denatured alcohol, specially denatured alcohol, and specially denatured rum; to the use of specially denatured spirits; and to the specifications for denaturants. The procedural requirements relative to the production of denatured alcohol and specially denatured rum are prescribed in Part 19 of Title 27 CFR, and those relative to the distribution and use of denatured alcohol and specially denatured rum are prescribed in Part 20 of Title 27 CFR.

(25) *Distribution and use of tax-free alcohol.* Part 22 of Title 27 CFR contains the regulations relating to tax-free alcohol and covers the procurement, storage, use, and recovery of such alcohol; and included requirements in respect to industrial use and withdrawal permits.

(26) *Liquors and articles from Puerto Rico and the Virgin Islands.* Part 250 of Title 27 CFR contains the regulations relating to the production, bonded warehousing, and withdrawal of distilled spirits, and denatured spirits, and the manufacture of articles in Puerto Rico and the Virgin Islands to be brought into the United States free of tax and the collection of internal revenue taxes on taxable alcoholic products coming into the United States from Puerto Rico and the Virgin Islands. Regulations respecting spirits produced in Puerto Rico or the Virgin Islands and brought into the United States and transferred from customs custody to internal revenue bond are also contained in this part.

(27) *Importation of liquors.* Part 251 of Title 27 CFR contains the substantive and procedural requirements relative to the importation of distilled spirits, wines, and beer into the United States from foreign countries including special (occupational) and commodity taxes, permits, marking, branding, and labeling of containers and packages.

(28) *Exportation of liquors.* Part 252 of Title 27 CFR contains the regulations relating to exportation including, where applicable, lading for use on vessels and aircraft, transfer to a foreign-trade zone, or transfer to a manufacturing bonded warehouse, Class 6, of distilled spirits (including specially denatured spirits), beer (including beer concentrate), and wine, and transfer of distilled spirits and wine for deposit in a customs bonded warehouse, whether without payment of tax, free of tax, or with benefit of drawback. It includes requirements with respect to removal, shipment, lading, deposit, evidence of exportation, losses, claims, and bonds.

§ 70.112 Excise taxes.

(a) *Collection.* Taxes on distilled spirits, wines, and beer are paid by returns. If the person responsible for paying the taxes has filed a proper bond with the regional director (compliance), such person may file semimonthly returns, with proper remittances, to cover the taxes incurred on distilled spirits, wines, and beer during such semimonthly period. Payment must accompany the return unless required to be made by electronic fund transfer (EFT). If the taxpayer is not qualified to

defer taxpayment, or has been placed on a prepayment basis by the regional director (compliance), the taxpayer must prepay the tax on the distilled spirits, wines, or beer. Distilled spirits, wines, and beer tax returns are filed in accordance with the instruction on the return forms, which are furnished to industry members by ATF. Special tax stamps are issued to denote the payment of special (occupational) taxes by liquor dealers, brewers, and manufacturers of nonbeverage products. Detailed information respecting the payment of tax on liquors and the payment of occupational taxes, including the forms to be used and procedures to be followed, is contained in the respective regulations described in § 70.111(c).

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

§ 70.113 Claims.

(a) *Claims for remission.* When distilled spirits (including distilling material and denatured spirits), wine, or beer on which the tax has not been paid or determined is lost, and the person liable for payment of the tax thereon desires to be relieved from such liability, such person may file claim on Form 5620.8 for remission of tax on the quantity that was lost. The regional director (compliance) may, in any event, require such a claim to be filed, and will require it if circumstances indicate that the loss was caused by theft or, in the case of distilled spirits (including distilling material), unauthorized voluntary destruction. On receipt of a claim the regional director (compliance) makes a factual determination, and notifies the claimant of allowance or rejection of the claim. If the claim is rejected, and circumstances so warrant, the regional director (compliance) will take appropriate steps to collect the tax.

(b) *Claims for abatement.* When the tax on distilled spirits, wines, or beer is assessed and the taxpayer thinks that the tax is not due under the law, such taxpayer may file a claim for abatement of the tax on Form 5620.8 with the regional director (compliance). Form 5620.8 may be procured from the regional director (compliance). The regional director (compliance) may call

upon the taxpayer to file a bond in double the amount of the tax in order to insure collection of the tax if the claim is rejected. When the claim is acted upon, the taxpayer is notified of the allowance or rejection of the claim. If the claim is rejected, the regional director (compliance) will initiate action to collect the tax.

(c) *Claims for refund—(1) Taxes illegally, erroneously, or excessively collected.* A claim on Form 5620.8 for refund of taxes illegally, erroneously, or excessively collected may be filed by the taxpayer with the regional director (compliance). Such claim must be filed within three years (two years under certain circumstances) after the date of payment of the tax. If the claim is rejected, the taxpayer is notified of the rejection by registered or certified mail, and the taxpayer may then bring suit in the U.S. District Court or the Court of Claims for recovery of the tax. Such suits must be filed generally within two years from the date of mailing of the rejection notice. If the claim is allowed, a check for the amount of the refund and allowable interest is forwarded to the taxpayer; however, if there are other unpaid taxes outstanding against the taxpayer, the overpayment may be applied to the outstanding taxes and the balance, if any, refunded.

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

(i) Spirits returned to bonded premises, lost by accident or disaster, or taken as samples by the United States, or

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

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

(d) *Claims for allowance, credit, or relief.* A qualified permittee, manufacturer, or proprietor may, subject to the conditions in the appropriate regulations, file claim on Form 5620.8 with the regional director (compliance)

for allowance of loss, credit of tax, or relief from tax liability, as applicable, on

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

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

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

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

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

(e) *Claims for payment-disaster losses.* When distilled spirits, wines, rectified products, or beer held or intended for sale is lost, rendered unmarketable, or condemned by a duly authorized official by reason of a "major disaster" as determined by the President of the United States, the person holding such product for sale at that time may, subject to the conditions in the appropriate regulations, file claim on Form 5620.8 with the regional director (compliance) of the region in which the product was lost, rendered unmarketable, or condemned, for payment of an amount equal to the internal revenue taxes paid or determined and any customs duties paid thereon. Claims must be filed within 6 months from the date on which the President makes the determination that the disaster has occurred. The determination date is construed to mean the date the Director, Office of Emergency Preparedness, identifies the specific disaster area.

§ 70.114 Preparation and filing of claims.

(a) *Distilled spirits at distilled spirits plants.* Procedural instructions in respect of claims for remission, abatement, credit, or refund of tax on spirits (including denatured spirits) lost or destroyed on or lost in transit to, or on spirits returned to, the premises of a distilled spirits plant are contained in Part 19 of Title 27 CFR or, as applicable, in Parts 170 and 19 of Title 27 CFR for Puerto Rico or Virgin Islands spirits lost in internal revenue bond. It is not necessary to file a claim for credit of tax on taxpaid samples taken by ATF officers from distilled spirits plants, as the regional director (compliance) will allow credit, without claim, for tax on such samples.

(b) Specially denatured spirits.

Procedural instructions in respect of claims for allowance of loss on specially denatured spirits lost on the premises of a bonded dealer or user, or while in transit to such premises, are contained in Part 20 of Title 27 CFR.

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

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

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

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

(3) Credit or refund of tax paid on unmerchantable domestic wine returned to bond are contained in Part 240 of Title 27 CFR.

(e) Beer. Procedural instructions in respect of claims for refund or credit of tax which has been paid (or allowance, credit, or relief of tax liability if the tax has not been paid) on domestic beer returned to a brewery or voluntarily destroyed; or lost, whether by theft or otherwise, or destroyed or otherwise rendered unmerchantable by fire, casualty, or act of God are contained in Part 25 of Title 27 CFR.

(f) Distilled spirits, wines, or beer for export. Procedural instructions in respect of claims for:

(1) Drawback of internal revenue tax on distilled spirits, wines, or beer for export, use as supplies on certain vessels or aircraft, or deposit in a foreign-trade zone, or deposit of distilled spirits or wine in a customs bonded warehouse, and

(2) Remission of tax on distilled spirits, specially denatured spirits, wines, or beer, withdrawn without payment or free of tax and lost during transportation to the port of export, customs bonded warehouse (distilled spirits and wine only), manufacturing bonded warehouse, vessel or aircraft, or foreign-trade zone, as applicable, are contained in Part 252 of Title 27 CFR. Procedural instructions as to claims respecting export with benefit of drawback of tax on domestic distilled spirits products containing spirits from Puerto Rico or the Virgin Islands are contained in Parts 19 and 252 of Title 27 CFR.

(g) Miscellaneous. Procedural instructions are contained in Part 170 of Title 27 CFR in respect of claims for—

(1) Refund or credit of tax on distilled spirits, wines, or beer where such refund or credit is claimed on the grounds that

tax was assessed or collected erroneously, illegally, without authority, or in any manner wrongfully, or on the grounds that such amount was excessive, and where such refund or credit is subject to the limitations imposed by section 6423 of the Internal Revenue Code.

(2) Payment of an amount equal to the internal revenue tax paid or determined and customs duties paid on distilled spirits, wines, rectified products, and beer previously withdrawn, which were lost, rendered unmarketable, or condemned by a duly authorized official by reason of a major disaster occurring in the United States after June 30, 1959.

(h) Special taxes. Procedural instructions in respect of claims for abatement of assessments or refund of overpayments of liquor dealers occupational taxes and penalties are contained in Part 194 of Title 27 CFR. When claim is filed for refund of an occupational tax for which a stamp was issued, the stamp (or a Certificate in Lieu of Lost or Destroyed Special Tax Stamp, accompanied by affidavits attesting to loss or destruction of the stamp) must be surrendered with the claim. Such claims must be submitted within 3 years from the date of payment of the tax.

(i) Low wines at vinegar plants. Procedural instructions in respect of claims for remission of tax on low wines (distilled spirits) lost at vinegar plants producing vinegar by the vaporizing process are contained in Part 19 of Title 27 CFR.

(j) Distilled spirits used in nonbeverage products. Procedural instructions in respect of claims:

(1) For drawback of tax on distilled spirits used in the manufacture of medicines, medicinal preparations, food products, flavors, or flavoring extracts which are unfit for beverage purposes, and

(2) For refund or adjustment of special (occupational) tax, are contained in Part 197 of Title 27 CFR.

(k) Reopening claims. A claimant who wishes to have a rejected claim reopened must, within the applicable statutory period of limitations, submit a written application to the regional director (compliance) for reconsideration of the claim. Such application must show that the additional evidence to be presented is new and material, and that such evidence was unknown to the claimant, or unobtainable by the claimant, when the claim was previously under consideration.

(l) Claimant's rights under law and regulations. Before final action has been taken on a claim, a claimant who, by

reason of an oversight, misunderstanding of law and regulations, miscalculation, or other cause, did not claim the full amount of abatement, refund, credit, or drawback, as the case may be, of tax to which the claimant is legitimately entitled, may amend a valid claim, and statements filed in support thereof, in instances where such a claim is deficient in establishing the claimants eligibility to the rights extended to such claimant under law and regulations.

§ 70.115 Offers in compromise.

Procedure in the case of offers in compromise of liabilities under chapter 51 of the Internal Revenue Code and of penalties for violation of the Federal Alcohol Administration Act, is set forth in § 70.151.

§ 70.116 Application for approval of interlocking directors and officers under section 8 of the Federal Alcohol Administration Act.

Any person who is an officer or director of a corporation now engaged in business as a distiller, rectifier, or blender of distilled spirits, or of an affiliate thereof, who desires to take office in other companies similarly engaged, must obtain permission to do so from the Director. Applications for such permission to take office shall be prepared and filed in accordance with instructions available from the regional director (compliance) or from the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226.

§ 70.117 Rulings.

The procedure for rulings in alcohol tax matters is set forth in § 70.152.

§ 70.118 Conferences.

Any person desiring a conference in the office of the regional director (compliance) of the region in which such person is located or of the Director, in Washington, relative to any matter arising in connection with such person's operations, will be accorded such a conference upon request. No formal requirements are prescribed for such conference.

§ 70.119 Representatives.

Subpart E of Part 601, 26 CFR, conference and practice requirements, is applicable to all representatives of the taxpayer, in the office of the Director, or in the office of the regional director (compliance).

§ 70.120 Forms.

For forms to be used, see § 70.111(c).

Provisions Relating to Tobacco Products, and Cigarette Papers and Tubes

§ 70.131 Imposition of taxes; regulations.

(a) *Taxes.* Subchapter A of chapter 52 of the Internal Revenue Code of 1954, as amended, imposes taxes on tobacco products, and cigarette papers and tubes manufactured in or imported into the United States. Subchapter D of chapter 78 of the Internal Revenue Code imposes a tax (equal to the internal revenue tax imposed in the United States upon the like articles of merchandise of domestic manufacture) on tobacco products, and cigarette papers and tubes of Puerto Rican and Virgin Islands manufacture brought into the United States and withdrawn for consumption or sale.

(b) *Regulations.* The procedural requirements with respect to matters relating to tobacco products, and cigarette papers and tubes are contained in the regulations listed below:

(1) Part 200 of Title 27 CFR relates to the procedure and practice in connection with the disapproval of applications for permits, and the suspension and revocation of permits, under chapter 52 of the Internal Revenue Code.

(2) Part 270 of Title 27 CFR relates to the manufacture of tobacco products, the payment by manufacturers of tobacco products of internal revenue taxes imposed by chapter 52 of the Internal Revenue Code, and the qualification of and operations by manufacturers of tobacco products.

(3) Part 275 of Title 27 CFR relates to tobacco products, and cigarette papers and tubes imported into the United States from a foreign country or brought into the United States from Puerto Rico, the Virgin Islands, or a possession of the United States; the removal of cigars from a customs bonded manufacturing warehouse, Class 6; and the release of such articles from customs custody, without payment of internal revenue tax or customs duty attributable to the internal revenue tax.

(4) Part 285 of Title 27 CFR relates to the manufacture of cigarette papers and tubes, the payment by manufacturers of cigarette papers and tubes of internal revenue taxes imposed by chapter 52 of the Internal Revenue Code, and the qualification of and operations by manufacturers of such articles.

(5) Part 290 of Title 27 CFR relates to the exportation (including supplies for vessels and aircraft and transfers to a foreign-trade zone) of tobacco products, and cigarette papers and tubes, without payment of tax, or with benefit of drawback of tax, and the qualification of and operations by export warehouse proprietors.

(6) Part 295 of Title 27 CFR relates to the removal of tobacco products, and cigarette papers and tubes, without payment of tax, for use of the United States.

(7) Part 296 of Title 27 CFR relates to the provisions of a miscellaneous nature or not of continuing application. Included are regulations relating to:

(i) Limitations imposed by section 6423 of the Internal Revenue Code on the refund or credit of tax paid or collected on tobacco products, and cigarette papers and tubes;

(ii) Losses of tobacco products, and cigarette papers and tubes caused by disasters occurring in the United States on or after September 3, 1958; and

(iii) Purchase, receipt, possession, offering for sale, or sale or other disposition of tobacco products by dealers in such products.

§ 70.132 Qualification and bonding requirements.

(a) *Manufacturers of tobacco products and proprietors of export warehouses.* Every person, before commencing business as a manufacturer of tobacco products or as a proprietor of an export warehouse, is required to qualify with the Bureau of Alcohol, Tobacco and Firearms by making application for a permit and filing bond and other required documents with, and obtaining a permit from, the regional director (compliance) for the region in which operations are to be conducted.

(b) *Manufacturers of cigarette papers and tubes.* Every person, before commencing business as a manufacturer of cigarette papers and tubes, is required to qualify with the Bureau of Alcohol, Tobacco and Firearms by filing bond and other required documents with the regional director (compliance) for the region in which operations are to be conducted.

(c) *Puerto Rican manufacturers of tobacco products.* Every manufacturer of tobacco products in Puerto Rico who desires to defer payment in Puerto Rico of the internal revenue tax imposed by section 7652(a) of the Internal Revenue Code on tobacco products of Puerto Rican manufacture coming into the United States must file a bond with the regional director (compliance). Such bond is conditioned on the principal's paying, at the time and in the manner prescribed in the regulations, the full amount of tax computed on the tobacco products which are released for shipment to the United States. No bond is required if the tax is prepaid.

(d) *Proprietors of customs warehouses.* Every proprietor of a customs bonded manufacturing warehouse, Class 6, who desires to

remove under Part 290 tax-exempt cigars for exportation (including supplies for vessels and aircraft), or for delivery for subsequent exportation, is required to file a bond with the regional director (compliance) for the region in which the customs warehouse is located. However, removal of cigars for sale or consumption in the United States is subject to customs regulations.

(e) *Drawback of tax.* Taxpaid tobacco products, and cigarette papers and tubes may be exported with benefit of drawback of tax. Drawback may be allowed only to the person who paid the tax on such articles and who files claim and otherwise complies with the provisions contained in the applicable regulations referred to in § 70.131. As a condition precedent to the allowance of any drawback claim, the claimant is required to file a bond in an amount not less than the amount of tax covered in the claim.

(f) *General.* Detailed information relating to the qualification and bonding requirements, including the forms to be used and the procedure to be followed, is fully set forth in the regulations referred to in § 70.131.

§ 70.133 Collection of taxes.

(a) *Tobacco products.* Taxes on tobacco products are paid by the manufacturer on the basis of a return. If the manufacturer has filed a proper bond, such manufacturer may defer payment at the time of removal and file semimonthly returns to cover the taxes. If the manufacturer has not filed such a bond or if the manufacturer has defaulted in any way in paying the taxes, the manufacturer is required to file a prepayment return prior to removal of such products, and to continue so doing until the regional director (compliance) finds that the revenue will not be jeopardized by deferred payment. Tax returns, with remittances, are filed by the domestic manufacturer with the appropriate regional director (compliance). Taxes on cigars produced in a customs bonded manufacturing warehouse, Class 6, are paid on the basis of a return to the director of customs in accordance with customs procedures and regulations. Taxes on tobacco products imported or brought into the United States from a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States are paid by the importer to the director of customs on the basis of a return made on the customs form by which release from customs custody is to be effected. However, taxes on tobacco products manufactured in Puerto Rico and brought into the United

States may be prepaid in Puerto Rico on the basis of a return. If a Puerto Rican manufacturer has filed a proper bond, such manufacturer may defer payment at the time of release for shipment to the United States and file a semimonthly return to cover the taxes. If the manufacturer has not filed such a bond or if such manufacturer has defaulted in any way in payment of taxes, the manufacturer must file a prepayment return prior to removal of such products for shipment to the United States, and continue to do so until the regional director (compliance) finds that the revenue will not be jeopardized by deferred payment. Tax returns in Puerto Rico, with remittances, are filed with the Chief, Puerto Rico Operations, in the Bureau of Alcohol, Tobacco and Firearms.

(b) *Cigarette papers and tubes.* Taxes on cigarette papers and tubes are paid by the manufacturer on the basis of a semimonthly return. Such returns, with remittances, are filed with the regional director (compliance) for the region in which the factory is located. Taxes on cigarette papers and tubes imported or brought into the United States from a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States are paid to the director of customs before removal on the basis of a return made on the customs form by which release from customs custody is effected. However, taxes on cigarette papers and tubes of Puerto Rican manufacture which are to be shipped to the United States may be prepaid in Puerto Rico on the basis of a return.

(c) *General.* Detailed information about the payment of taxes on tobacco products, and cigarette papers and tubes, including the forms to be used, records to be kept, and reports and inventories to be filed, is contained in the respective regulations referred to in § 70.131.

§ 70.134 Assessments.

When additional or delinquent tax liability on tobacco products, and cigarette papers and tubes is disclosed by an investigation or by an examination of the taxpayer's records, a notice (except where delay may jeopardize collection of the tax, or where the amount is nominal or the result of an evident mathematical error) is forwarded to the taxpayer indicating the basis for, and amount of, the liability and affording the taxpayer an opportunity to show cause, in writing, against assessment.

§ 70.135 Claims.

(a) *General.* Detailed requirements, including the procedure to be followed

in the filing of a claim, the form to be used, the supporting documents which must be submitted, the time within which a claim may be filed, and any other limitations or instructions are contained in the applicable regulations referred to in § 70.131.

(b) *Abatement of assessment.*

Abatement of the unpaid portion of an assessment of any tax on tobacco products, and cigarette papers and tubes, or any liability in respect thereof, may be allowed to the extent that such assessment is excessive in amount, is assessed after expiration of the applicable period of limitation, or is erroneously or illegally assessed.

(c) *Allowance of tax.* Relief from the payment of tax on tobacco products, and cigarette papers and tubes may be extended to a manufacturer by approval of a claim for allowance where such articles, after removal from the factory upon determination of tax and prior to the time for payment of such tax, are lost (otherwise than by theft) or destroyed by fire, casualty, or act of God, while in the possession or ownership of the manufacturer who removed such articles, or are withdrawn by the manufacturer from the market.

(d) *Remission of tax liability.* Remission of the tax liability on tobacco products, and cigarette papers and tubes may be extended to a manufacturer or export warehouse proprietor liable for the tax, where such articles in bond are lost (otherwise than by theft) or destroyed by fire, casualty, or act of God, while in the possession or ownership of the manufacturer or export warehouse proprietor.

(e) *Refund of tax.* Taxes paid on tobacco products, cigarette papers and tubes lost (otherwise than by theft) or destroyed by fire, casualty, or act of God, while in the possession or ownership of the manufacturer, importer, or export warehouse proprietor, or withdrawn from the market, may be refunded. Refunds may also be made within certain limitations for overpayments of tax on tobacco products, and cigarette papers and tubes.

(f) *Losses caused by disaster.*

Payment of an amount equal to the amount of internal revenue taxes paid or determined and customs duties paid on tobacco products, and cigarette papers and tubes removed from the factory or released from customs custody, which are lost, rendered unmarketable, or condemned by a duly authorized official by reason of a "major disaster" as determined by the President of the United States may be made only if, at the time of the disaster, such articles were being held for sale by the claimant.

Claims must be filed within 6 months from the date on which the President makes the determination that the disaster has occurred. The determination date is construed to mean the date the Director, Office of Emergency Preparedness, identifies the specific disaster area.

(g) *Drawback of tax.* Drawback may be allowed to the person who paid the tax on tobacco products, and cigarette papers and tubes which are shipped to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States.

(h) *Credit of tax.* Taxes paid on tobacco products, and cigarette papers and tubes lost (otherwise than by theft) or destroyed by fire, casualty, or act of God, while in the possession or ownership of the manufacturer, or withdrawn from the market, may be credited upon approval of a claim.

(i) *Reopening claims.* A claimant who wishes to have a rejected claim reopened must, within the applicable statutory period of limitations, submit a written application to the regional director (compliance) for reconsideration of the claim. Such application must show that the additional evidence to be presented is new and material, and that such evidence was unknown to the claimant, or unobtainable by the claimant, when the claim was previously under consideration.

(j) *Claimant's rights under law and regulations.* Before final action has been taken on a claim, a claimant who, by reason of an oversight, misunderstanding of law and regulations, miscalculation, or other cause, did not claim the full amount of abatement, refund, credit, or drawback, as the case may be, of tax to which the claimant is legitimately entitled, may amend a valid claim, and statements filed in support thereof, in instances where such a claim is deficient in establishing the claimants eligibility to rights extended under law and regulations.

§ 70.136 Offers in compromise.

Procedure in the case of offers in compromise of liabilities under chapter 52 of the Internal Revenue Code is set forth in paragraph (a) of § 70.151.

§ 70.137 Rulings.

The procedure for rulings in tobacco tax matters is set forth in § 70.152.

§ 70.138 Forms.

Detailed information as to all forms prescribed for use in connection with tobacco taxes is contained in the

regulations referred to in § 70.131(b). Copies of all necessary forms, and instructions as to their preparation and filing, may be obtained from regional directors (compliance). ATF Publication 1322.1, which contains a listing of alcohol, tobacco, and firearms public-use forms, may be obtained from the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153. Such publication is available, for reference purposes, in Bureau of Alcohol, Tobacco and Firearms reading rooms.

Provisions Relating to Firearms and Explosives

§ 70.141 Applicable laws.

(a) Chapter 53 of the Internal Revenue Code (26 U.S.C. 5801-5872), the provisions of which are derived from the National Firearms Act Amendments of 1968 (82 Stat. 1227), imposes a tax on the making and transfer in the United States of machine guns, destructive devices, and certain other types of firearms, and an occupational tax upon every importer and manufacturer of, and dealer in, such firearms. Section 1(b) (2) of the act of August 9, 1939 (52 Stat. 1291; 49 U.S.C. 781-788), makes provision for the seizure and forfeiture of vessels, vehicles, and aircraft which are used to transport, carry, or possess, or to facilitate the same, any firearms with respect to which there has been committed any violation of the National Firearms Act or any regulations issued pursuant thereto.

(b) Title I, State Firearms Control Assistance (18 U.S.C., Chapter 44), of the Gun Control Act of 1968 (82 Stat. 1213), as amended by Pub. L. 99-308 (100 Stat. 449), Pub. L. 99-360 (100 Stat. 766) and Pub. L. 99-408 (100 Stat. 920), provides for the licensing of manufacturers and importers of firearms and ammunition, collectors of firearms, and dealers in firearms, and establishes controls for firearms and ammunition acquisitions and dispositions.

(c) Title I, State Firearms Control Assistance (18 U.S.C. Chapter 44), of the Gun Control Act of 1968 (82 Stat. 1213) as amended by Pub. L. 99-308 (100 Stat. 449) and Pub. L. 99-360 (100 Stat. 766), provides that no person may ship or transport any firearms or ammunition in interstate or foreign commerce, or receive any firearms or ammunition which has been shipped or transported in interstate or foreign commerce, or possess any firearms or ammunition in or affecting commerce, who (1) has been convicted of a crime punishable by imprisonment for a term exceeding 1 year, (2) is a fugitive from justice, (3) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances

Act, 21 U.S.C. 802), (4) has been adjudicated as a mental defective or has been committed to a mental institution, (5) is an alien illegally or unlawfully in the United States, (6) has been discharged from the Armed Forces under dishonorable conditions, or (7) having been a citizen of the United States, has renounced citizenship.

(d) Section 38 of the Arms Export Control Act (22 U.S.C. 2778) and regulations thereunder and Part 47 of this chapter are applicable to the registration and licensing of persons engaged in the business of manufacturing, importing or exporting arms, ammunition, or implements of war. The Secretary of the Treasury is authorized to control, in furtherance of world peace and the security and foreign policy of the United States, the import of articles enumerated on the U.S. Munitions Import List.

(e) Title XI, Regulation of Explosives (18 U.S.C. chapter 40) of the Organized Crime Control Act of 1970 (84 Stat. 922) provides for the licensing of manufacturers, importers, and limited manufacturers of, and dealers in, explosives in interstate or foreign commerce, and for issuance of permits for users who buy or transport explosives in interstate or foreign commerce.

§ 70.142 Taxes relating to machine guns, destructive devices, and certain other firearms.

Part 179 of Title 27 CFR contains the regulations relative to the:

(a) Payment of special (occupational) taxes by manufacturers and importers of and dealers in, machine guns, destructive devices, and certain other types of firearms,

(b) Payment of the tax on the making or transfer of such firearms,

(c) Registration, identification, importation, and exportation of such firearms,

(d) Keeping of books and records and rendering of returns, and

(e) The forfeiture and disposition of seized firearms under the provisions of the National Firearms Act.

§ 70.143 Commerce in firearms and ammunition.

Part 178 of Title 27 CFR contains the regulations relative to:

(a) The licensing of importers and manufacturers of firearms and ammunition, collectors of firearms, and dealers in firearms,

(b) The identification of firearms,

(c) The acquisition and disposition of firearms and ammunition,

(d) The records required to be kept by licensees, and

(e) The forfeiture and disposition of seized firearms and ammunition, under the provisions of title I of the Gun Control Act of 1968, as amended, and also

(f) The restrictions regarding the receipt, possession, or transportation of firearms by certain persons.

§ 70.144 Importation of arms, ammunition, and implements of war.

Part 47 of Title 27 CFR implements Executive Order 11958 and supplements the import provisions contained in Parts 178 and 179 of Title 27 CFR. Part 47 establishes the U.S. Munitions Import List and contains the regulations relative to:

(a) The registration of importers in arms, ammunition, and implements of war,

(b) Import permit requirements,

(c) Import certification and verification,

(d) Import restrictions applicable to certain countries, and

(e) The forfeiture of seized arms, ammunition, and implements of war under the Arms Export Control Act.

§ 70.145 Commerce in explosives.

Part 55 of Title 27 CFR contains the regulations relative to:

(a) Licensing of manufacturers, importers, and limited manufacturers of, and dealers in, explosives,

(b) Permits for users who buy or transport explosives in interstate or foreign commerce,

(c) Construction of different types of storage facilities for three classes of explosive material,

(d) The identification of explosives,

(e) the acquisition and disposition of explosives,

(f) The records required to be kept by licensees and permittees,

(g) The forfeiture and disposition of seized explosive material, under the provision of Title XI of the Organized Crime Control Act of 1970,

(h) Operations by licensees or permittees and hearings procedure after denial or revocation of license or permit, and also

(i) Restrictions regarding the receipt, possession, or transportation of explosives by certain persons under the provisions of Title XI of the Organized Crime Control Act of 1970.

§ 70.146 Rulings.

The procedure for rulings in matters in the firearms and explosives area is set forth in § 70.152.

§ 70.147 Assessments.

Where the evidence disclosed by investigation establishes that additional

or delinquent tax liability has been incurred and not paid, the regional director (compliance) will list the tax as an assessment. Notification and demand for payment of assessed taxes will be issued to the taxpayer by the regional director (compliance).

§ 70.148 Claims.

The procedures applicable to the filing of claims under chapter 53 of the Internal Revenue Code are set forth below:

(a) Claims for refund of the making and transfer taxes, and of occupational taxes, whether paid pursuant to assessment or voluntarily paid, and claims for redemption of "National Firearms Act" stamps, are prepared and filed in accordance with the procedures set forth in Part 179 of Title 27 CFR.

(b) Claims for abatement of making and transfer taxes, and claims for abatement of occupational taxes and penalties erroneously assessed, are prepared and filed in accordance with the procedures set forth in § 70.113(b).

(c) Claims may be reopened or amended in accordance with the provisions of § 70.114 (k) and (l).

§ 70.149 Offers in compromise.

The procedure in the case of offers in compromise of liability under chapter 53 of the Internal Revenue Code is set forth in paragraph (a) of § 70.151.

Seized Property

§ 70.150 Seizure and forfeiture of personal property.

Part 72 of Title 27 CFR contains the regulations relative to the personal property seized by officers of the Bureau of Alcohol, Tobacco and Firearms as subject to forfeiture as being used, or intended to be used, to violate certain Federal laws; the remission or mitigation of such forfeiture; and the administrative sale or other disposition, pursuant to forfeiture, of such seized property other than firearms seized under the National Firearms Act and firearms and ammunition seized under title I of the Gun Control Act of 1968, as amended. For disposal of firearms under the National Firearms Act, see 26 U.S.C. 5872(b). For disposal of firearms and ammunition under title I of the Gun Control Act of 1968, see 18 U.S.C. 924(d). For disposal of explosives under title XI of Organized Crime Control Act of 1970, see 18 U.S.C. 844(c).

Offers in Compromise

§ 70.151 Offers in compromise.

(a) *Liabilities (other than forfeiture) under Internal Revenue Code.* Persons desiring to submit offers in compromise in order to avoid prosecution

proceedings, and taxpayers who disclaim liability in whole or in part for taxes or claim inability to pay the taxes in full, may submit offers in compromise to the regional director (compliance). If the offer in compromise is based on inability to pay, the proponent should include in the financial statement on Form 433 (see 26 CFR 601.203(b)) appropriate amounts to reflect an interest, if any, in jointly owned property, the loan value of life insurance, and future income from trusts and similar sources. Each regional director (compliance) has the authority to accept or reject offers in compromise of:

(1) Tax liabilities arising from:
(i) The illegal production of untaxed distilled spirits, wines, or beer,

(ii) The failure to file returns of, or to pay, occupational taxes with respect to distilled spirits, wines, beer, or firearms, and

(iii) The failure to pay firearms making or transfer taxes; and

(2) Criminal liabilities of retail dealers in liquor arising from violations of the internal revenue laws relating to liquor, including the reuse or refilling of liquor bottles. The Associate Director (Compliance Operations), has the authority to accept or reject offers in compromise of civil liability (of less than \$100,000) and criminal liability arising under chapters 51, 52, and 53 of the Internal Revenue Code in cases not subject to compromise by regional directors (compliance). The Director accepts or rejects all other offers in compromise except those in compromise of liabilities listed in paragraphs (b) and (c) of this section. In civil cases involving liability of \$500 or over and in criminal cases the functions of the General Counsel under section 7122(b) of the Internal Revenue Code are performed by the Chief Counsel of the Bureau of Alcohol, Tobacco and Firearms. Form 5640.1 is used in all cases arising under this paragraph, regardless of whether the amount of the offer is tendered in full at the time the offer is filed or the amount of the offer is to be paid by deferred payment or payments. When final action has been taken, the regional director (compliance), when applicable, and the proponent are notified of the acceptance or rejection of the offer. If the offer is rejected, the sum submitted with the offer is returned to the proponent, and prosecution or collection proceedings are resumed. If the offer is accepted, the proponent is notified and the case is closed. Acceptance of an offer in compromise of civil liabilities does not remit criminal liabilities, nor does

acceptance of an offer in compromise of criminal liabilities remit civil liabilities.

(b) *Violations of Federal Alcohol Administration Act.* The Federal Alcohol Administration Act provides penalties for violations of its provisions. The Associate Director (Compliance Operations), Bureau of Alcohol, Tobacco and Firearms is authorized to compromise such liabilities. Persons desiring to submit offers in compromise may submit such offers on Form 5640.2 to the regional director (compliance) or an ATF officer. Such offers are considered by the regional director (compliance) and are forwarded to the Associate Director (Compliance Operations) for final action. When the offer is acted upon, the proponent and the regional director (compliance) are notified of the acceptance or rejection of the offer. If the offer is rejected, the sum submitted with the offer in compromise is returned to the proponent. If the offer is accepted, the proponent is notified and the case is closed.

(c) *Forfeiture liabilities.* The Director or his delegate is authorized to compromise liabilities to administrative forfeiture of personal property seized under the laws administered and enforced by the Bureau of Alcohol, Tobacco and Firearms. Persons desiring to submit offers in compromise of such liabilities may submit such offers on Form 656-E to the Director or his delegate. When the offer is acted upon, the proponent is notified of the acceptance or rejection of the offer. If the offer is rejected, the sum submitted with the offer in compromise is returned to the proponent. If the offer is accepted, the proponent is notified and the case is closed. Acceptance of an offer in compromise of civil liabilities does not remit criminal liabilities, nor does acceptance of an offer in compromise of criminal liabilities remit civil liabilities.

Rulings

§ 70.152 Rulings.

(a) *Requests for rulings.* Any person who is in doubt as to any matter arising in connection with:

(1) Operations or transactions in the alcohol tax area or under the Federal Alcohol Administration Act,

(2) Operations or transactions in the tobacco tax area, or

(3) The taxes relating to machine guns, destructive devices, and certain other firearms imposed by chapter 53 of the Internal Revenue Code; the registration by importers and manufacturers of, and dealers in, such firearms; the registration of such firearms; the licensing of importers and

manufacturers of, and dealers in, firearms and ammunition, and collectors of firearms and ammunition curios and relics under chapter 44 of title 18 of the United States Code; the licensing of manufacturers, importers, limited manufacturers of, and dealers in, explosives and issuance of permits for users of explosives under chapter 40 of title 18 of the United States Code; and registration of Importers of, and permits to import, arms, ammunition, and implements of war, under section 38 of the Arms Export Control Act of 1976, may request a ruling thereon by addressing a letter to the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, or to the regional director (compliance), of the ATF region in which the inquirer's business is located. Since a ruling can issue only from the Bureau Headquarters, any such request made to the regional director (compliance) will be referred to the Director for reply unless the issues involved are clearly covered by currently effective rulings or come within the plain intent of the statutes or regulations. If a request for a ruling is signed by a representative, or if the representative is to appear before the Bureau of Alcohol, Tobacco and Firearms, such representative must present a tax information authorization or a power of attorney, signed by the taxpayer, authorizing the representative to receive or inspect confidential information in the matter. (See Subpart E, 26 CFR Part 601.) All rulings will be published in the Alcohol, Tobacco and Firearms Quarterly Bulletin as provided in 26 CFR 601.601.

(b) *Routine requests for information.* Routine requests for information should be addressed to the regional director (compliance) of the region in which the inquirer is located.

PART 170—MISCELLANEOUS REGULATIONS RELATING TO LIQUORS

Para. 27. The authority citation for Part 170 continues to read as follows:

Authority: 26 U.S.C. 5001, 5002, 5064, 5111, 5121, 5171, 5205, 5291, 5301, 5362, 7805; 31 U.S.C. 9304, 9306.

§ 170.77 [Amended]

Para. 28. Section 170.77(a) is amended by replacing in the second sentence the phrase "IRS Form 843" with the phrase "Form 2635 (5620.8)."

§ 170.91 [Amended]

Para. 29. Section 170.91 is amended by replacing in the first sentence the phrase "IRS Form 843" with the phrase "Form 2635 (5620.8)."

§ 170.305 [Amended]

Para. 30. Section 170.305(a) is amended by replacing the phrase "IRS Form 843" with the phrase "Form 2635 (5620.8)."

§ 170.305a [Amended]

Para. 31. Section 170.305a is amended by replacing in paragraphs (a)(1), (b)(1) and (c)(1) the phrase "IRS Form 843" with the phrase "Form 2635 (5620.8)."

§ 170.306 [Amended]

Para. 32. Section 170.306(b) is amended by replacing the phrase "IRS Form 843" with the phrase "Form 2635 (5620.8)."

PART 179—[AMENDED]

Para. 33. The authority citation for Part 179 continues to read as follows:

Authority: 26 U.S.C. 5801, 5802, 5811, 5812, 5821, 5822, 5841–5849, 5851–5854, 5861, 5871, 5872.

§§ 179.35, 179.36, 179.42, 179.46 and 179.47 [Amended]

Para. 34. Sections 179.35, 179.36, 179.42, 179.46, and 179.47 are amended by replacing the phrases "Form 11" and "IRS Form 11" wherever they appear in the sections with the phrase "Form 5630.5."

§ 179.34 [Amended]

Para. 35. Section 179.34 is amended by removing "(a) *General.*" from the beginning of the paragraph, by replacing in the second sentence of the paragraph the phrase "with the director of the service center serving the internal revenue district in which the taxpayer's principal place of business is located" with the phrase "with ATF in accordance with the instructions on the form", by removing paragraph (b), and by replacing the phrase "IRS Form 11" or "Form 11" wherever it appears with the phrase "Form 5630.5".

§ 179.37 [Amended]

Para. 36. Section 179.37 is amended by replacing in the first and second sentence of the paragraph the phrase "Director of the Service Center" with the phrase "regional director (compliance)."

§ 179.38 [Amended]

Para. 37. Section 179.38 is amended by replacing in the last sentence of the paragraph the phrase "Director of the Service Center serving the internal revenue district" with the phrase "regional director (compliance) for the region."

§ 179.42 [Amended]

Para. 38. Section 179.42 is amended by replacing in the second sentence of the

paragraph the phrase "the director of the service center serving the internal revenue district in which the business is located" with the phrase "ATF in accordance with the instructions on the form", and by removing the third sentence of the paragraph.

§ 179.43 [Amended]

Para. 39. Section 179.43 is amended by replacing in the last sentence of the paragraph the phrase "the Director of the Service Center serving the internal revenue district in which the business is located" with the word "ATF."

§ 179.46 [Amended]

Para. 40. Section 179.46 is amended by replacing in the first sentence of the paragraph the phrase "the Director of the Service Center serving the internal revenue district in which the special tax stamp was issued" with the word "ATF", and in the second sentence of the paragraph the phrase "Director of the Service Center" with the phrase "regional director (compliance)."

§ 179.47 [Amended]

Para. 41. Section 179.47 is amended by replacing in the first sentence of the paragraph the phrase "the Director of the Service Center serving the internal revenue district in which the special tax stamp was issued" with the word "ATF", and in the second sentence of the paragraph the phrase "Director of the Service Center" with the phrase "regional director (compliance)."

§ 179.50 [Amended]

Para. 42. Section 179.50 is amended by replacing in the first sentence of the paragraph the phrase "District Director or the Director of the Service Center, whichever is designated to receive the return (Form 11)," with the phrase "regional director (compliance)", and by replacing the phrase "Form 11" wherever it appears with the phrase "Form 5630.5."

§ 179.171 [Amended]

Para. 43. Section 179.171 is amended by replacing in the paragraph the phrase "Form 843" with the phrase "ATF Form 2635 (5620.8)."

§ 179.172 [Amended]

Para. 44. Section 179.172 is amended by replacing in the paragraph the phrase "Form 843" with the phrase "ATF Form 2635 (5620.8)" and in the fourth sentence of the paragraph the phrase "Director of the Service Center serving the internal revenue district in which the tax was paid" with the phrase "regional director (compliance)."

PART 194—[AMENDED]

Para. 45. The authority citation for Part 194 continues to read as follows:

Authority: 26 U.S.C. 5001, 5002, 5111–5117, 5121–5124, 5142, 5143, 5145, 5146, 5205–5207, 5301, 5352, 5555, 5613, 5681, 5691, 6001, 6011, 6051, 6061, 6065, 6071, 6091, 6109, 6311, 6314, 6402, 6511, 6601, 6657, 6676, 7011, 7805.

Para. 46. The table of contents to 27 CFR Part 194 is amended by removing 194.106d. In addition, the undesignated center heading preceeding § 194.106 and the heading to section 194.107 are amended by replacing the phrase "Form 11" with the phrase "Form 5630.5."

§§ 194.104, 194.106a, 194.106b, 194.107, 194.109, 194.121, 194.121a, 194.135, and 194.106 [Amended]

Para. 47. Sections 194.104, 194.106a, 194.106b, 194.107, 194.109, 194.121, 194.121a, 194.135, and the heading in Subpart H before section 194.106 are amended by replacing the phrases "Form 11" and "IRS Form 11" wherever they appear in the sections or headings with the phrase "Form 5630.5."

Para. 48. Section 194.27 is amended by replacing the phrase "Form 11" wherever it appears with the phrase "Form 5630.5" and by revising the last two sentences of the paragraph to read as follows:

§ 194.27 **Limited retail dealer; persons eligible.**

* * * Application on Form 5630.5 and payment of special tax at the rate specified in § 194.101 shall be submitted to ATF in accordance with the instructions on the form before any sales are made. If requested on Form 5630.5, ATF may issue the special tax stamp under the designation of (a) limited retail dealer in distilled spirits, if distilled spirits only are to be sold, (b) limited retail dealer in wine, if wine only is to be sold, or (c) limited retail dealer in beer, if beer only is to be sold.

§ 194.94 [Amended]

Para. 49. Section 194.94 is amended by replacing in the first sentence of the paragraph the phrase "the director of the service center who issued the stamp" with the word "ATF."

Para. 50. Section 194.104a is revised to read as follows:

§ 194.104a **Place for filing return.**

Form 5630.5 with remittance of tax shall be filed with ATF in accordance with the instructions on the form.

§ 194.105 [Amended]

Para. 51. Section 194.105 is amended by replacing in the first sentence of the paragraph the phrase "Internal Revenue

Service" with the phrase "Bureau of Alcohol, Tobacco and Firearms."

§ 194.106 [Amended]

Para. 52. Section 194.106 is amended by removing from the first sentence of the paragraph the phrase "from the director of the service center, from any internal revenue district director, or" and by replacing the phrase "IRS Form 11" and "Form 11" wherever it appears with the phrase "Form 5630.5."

§ 194.106a [Amended]

Para. 53. Section 194.106a is amended by replacing the citation "§ 301.7701–12 of this chapter" with the citation "26 CFR 301.7701–12", and by replacing the citation "§ 301.6676–1 of this chapter" with the citation "§ 70.105."

§ 194.106d [Removed]

Para. 54. Section 194.106d is removed from the part.

Para. 55. Section 194.111 is amended by removing the third sentence of the paragraph and revising the fourth sentence to read as follows:

§ 194.111 **Waiver of penalties.**

* * * If the regional director (compliance) determines that the delinquency was due to a reasonable cause and not to willful neglect or gross negligence, the addition to the tax will not be assessed. * * *

§ 194.121a [Amended]

Para. 56. Section 194.121a is amended by replacing in the second sentence of the paragraph the phrase "director of the service center" with the phrase "regional director (compliance)" and by replacing in the last sentence of the paragraph the phrase "the director of the service center" with the word "ATF."

§ 194.123 [Amended]

Para. 57. Section 194.123 is amended by replacing in the first sentence of the paragraph the phrase "Directors of service centers" with the phrase "Regional directors (compliance)."

§ 194.124 [Amended]

Para. 58. Section 194.124 is amended by replacing in the third sentence of the paragraph the phrase "the Internal Revenue Service" with the word "ATF" and by replacing the phrase "Form 11" wherever it appears with the phrase "Form 5630.5."

§ 194.126 [Amended]

Para. 59. Section 194.126 is amended by replacing in the paragraph the phrase "the Internal Revenue Service" with the word "ATF" and by replacing the

phrase "Form 11" wherever it appears with the phrase "Form 5630.5."

§ 194.127 [Amended]

Para. 60. Section 194.127 is amended by replacing in the last sentence of the paragraph the phrase "director of the service center" with the phrase "regional director (compliance)."

§ 194.132 [Amended]

Para. 61. Section 194.132 is amended by replacing in the first and second sentence of the paragraph the phrase "director of the service center" with the phrase "regional director (compliance)."

§ 194.133 [Amended]

Para. 62. Section 194.133 is amended by replacing in the first sentence of the paragraph the phrase "director of the service center" with the phrase "regional director (compliance)."

§ 194.134 [Amended]

Para. 63. Section 194.134 is amended by replacing in each sentence of the paragraph the phrase "director of the service center" with the phrase "regional director (compliance)" and by replacing the phrase "Form 11" wherever it appears with the phrase "Form 5630.5."

§ 194.136 [Amended]

Para. 64. Section 194.136 is amended by replacing in the first sentence of the paragraph the phrase "the district director or director of the service center with whom the original Form 11 was filed" with the phrase "ATF in accordance with the instructions on the Form 5630.5" and by replacing the phrase "Form 11" wherever it appears with the phrase "Form 5630.5."

§ 194.137 [Amended]

Para. 65. Section 194.137 is amended by replacing in the last sentence of the paragraph the phrase "director of the service center" with the phrase "regional director (compliance)" and by replacing the phrase "Form 11" wherever it appears with the phrase "Form 5630.5."

§ 194.139 [Amended]

Para. 66. Section 194.139 is amended by replacing in the first and second sentence of the paragraph the phrase "director of the service center" with the phrase "regional director (compliance)", by replacing in the second sentence of the paragraph the phrase "Form 843" with the phrase "ATF Form 2635 (5620.8)" and by replacing the phrase "Form 11" wherever it appears with the phrase "Form 5630.5."

Para. 67. Section 194.151 is amended by revising the section heading, by revising paragraph (a), by replacing in two places in paragraph (b) the phrase "director of the service center" with the phrase "regional director (compliance)," by replacing in five places in paragraph (b) the phrase "Form 4440" with the phrase "Form 5100.29", and by replacing the phrase "Form 11" wherever it appears with the phrase "Form 5630.5." As revised, § 194.151 heading and paragraph (a) reads as follows:

§ 194.151 Amended return, Form 5630.5; endorsement on stamp.

(a) *General.* A dealer who, during the taxable period for which special tax was paid, removes the business to a place other than that specified on the original special tax return on Form 5630.5, and stated on the special tax stamp, shall, within 30 days from the date the dealer begins to carry on such business at the new location, register the change with ATF by filing a new return on Form 5630.5, designated "Amended Return", setting forth the time when and the place to which such removal was made, and shall surrender the special tax stamp with the Form 5630.5 for endorsement of the change in location: *Provided*, That a dealer who filed an original return, Form 5630.5, under the provisions of § 194.106(b) may deliver the amended return and the stamp at any ATF office, or to any ATF officer inspecting the business, in lieu of mailing them to ATF: *Provided further*, That a dealer who filed an original return under the provisions of § 194.106(c) shall forward with the amended return an attachment showing both the old and new address of any place of business which has been relocated, and the special tax stamp covering the location from which the business was removed. The regional director (compliance) or the ATF officer receiving such return or stamp shall, if the return is submitted within the 30-day period, enter the proper endorsement on the stamp and return it to the taxpayer.

§ 194.152 [Amended]

Para. 68. Section 194.152 is amended by replacing in the first sentence of the paragraph the phrase "the director of the service center who issued the stamp" with the word "ATF."

Para. 69. Section 194.169 is amended by revising the concluding paragraph of the section as follows:

§ 194.169 Change of control, persons having right of succession.

In order to secure such right, the person or persons continuing the

business shall file with ATF, within 30 days from the date on which the successor begins to carry on the business, an amended special tax return on Form 5630.5, showing the basis of the succession, and shall surrender the unexpired special tax stamp or stamps for endorsement of the change in control: *Provided*, That, if the original return, Form 5630.5, was filed under the provisions of § 194.106(b), the person succeeding to the business may deliver the amended return and stamp to any ATF office, or to any ATF officer inspecting the business, in lieu of mailing them to ATF. If the applicant has the right of succession and the return and stamp are submitted on time, the regional director (compliance) or other ATF officer receiving them will enter the proper endorsement on the stamp and return it to the successor.

Para. 70. Section 194.201 is revised as follows:

§ 194.201 Claims.

Claims for abatement of assessment of special tax (including penalties and interest), or for refund of an overpayment of special tax (including interest and penalties), shall be filed on Form 2635 (5620.8). Claims shall be filed with the regional director (compliance) serving the region in which the special tax was paid or assessed. Each claim shall set forth in detail each ground on which it is made and shall contain facts sufficient to apprise the Bureau of Alcohol, Tobacco and Firearms of the exact basis thereof. If the claim is for refund of special tax for which a stamp was issued, such stamp shall be attached to and made a part of the claim, or the claimant shall include in the claim evidence satisfactory to the Bureau of Alcohol, Tobacco and Firearms that the stamp cannot be submitted.

PART 197—[AMENDED]

Para. 71. The authority citation for Part 197 continues to read as follows:

Authority: 5 U.S.C. 552; 26 U.S.C. 5131-5134, 5143, 5146, 5206, 5273, 6065, 6091, 6109, 6402, 6511, 6676, 7213, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Para. 72. The table of contents to 27 CFR Part 197 is amended by removing § 197.29d.

§§ 197.29a, 197.29b, 197.30, 197.31, 197.40, and 197.40a [Amended]

Para. 73. Sections 197.29a, 197.29b, 197.30, 197.31, 197.40, 197.40a, and the undesignated center heading preceding section 197.29 are amended by replacing the phrases "Form 11" and "IRS Form 11" wherever they appear in the sections

and in the heading with the phrase "Form 5630.5."

§ 197.28 [Amended]

Para. 74. Section 197.28 is amended by replacing in paragraph (a) the phrase "the director of the service center serving the internal revenue district in which the place of manufacture is located" with the phrase "ATF in accordance with the instructions on the form," and in paragraph (b) by replacing the phrase "the director of the service center serving the internal revenue district in which the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer) is located" with the phrase "ATF in accordance with the instructions on the form", and by replacing the phrases "Form 11" and "IRS Form 11" wherever they appear with the phrase "Form 5630.5."

§ 197.29 [Amended]

Para. 75. Section 197.29 is amended by replacing in the introductory text the phrase "director of the service center or from any district director" with the phrase "regional director (compliance)" and by replacing the phrase "Form 11" wherever it appears with the phrase "Form 5630.5."

§ 197.29a [Amended]

Para. 76. Section 197.29a is amended by replacing in the first sentence of the paragraph the citation "§ 301.7701-12 of this chapter" with the citation "26 CFR 301.7701-12", and by replacing in the second sentence of the paragraph the citation "§ 301.6676-1 of this chapter" with the citation "§ 70.105."

§ 197.29d [Amended]

Para. 77. Section 197.29d is removed from the part.

§ 197.41 [Amended]

Para. 78. Section 197.41 is amended by replacing in the first sentence of the paragraph the phrase "director of the service center" with the phrase "regional director (compliance)."

§ 197.42 [Amended]

Para. 79. Section 197.42 is amended by replacing in four places in the paragraph the phrase "director of the service center" with the phrase "regional director (compliance)" and by replacing the phrase "Form 11" wherever it appears with the phrase "Form 5630.5."

§ 197.43 [Amended]

Para. 80. Section 197.43 is amended by replacing in two places in the paragraph the phrase "the director of the service center who issued the stamp" with the

word "ATF" and by replacing the phrase "Form 11" wherever it appears with the phrase "Form 5630.5."

§ 197.46 [Amended]

Para. 81. Section 197.46 is amended by replacing the phrase "the director of the service center" with the word "ATF."

§ 197.48 [Amended]

Para. 82. Section 197.48 is amended by replacing in the second sentence of the paragraph the phrase "the director of the service center who issued the stamp" with the word "ATF" and by replacing the phrase "Form 11" with the phrase "Form 5630.5."

§ 197.50 [Amended]

Para. 83. Section 197.50 is amended by replacing the phrase "the director of the service center" with the word "ATF."

Para. 84. Section 197.55 is revised to read as follows:

§ 197.55 Change to higher rate.

A manufacturer of nonbeverage products who pays a special tax of \$25 per annum and has filed or intends to file a claim or claims for drawback covering distilled spirits in excess of 25 proof gallons used during the tax year for which the special tax was paid shall pay special tax of \$50 or \$100, as the case may be, and obtain a stamp therefor. On payment of the special tax at the higher rate, the manufacturer may surrender the special tax stamp showing payment of \$25, with a claim on Form 2635 (5620.8) for refund. Claims shall be filed with the regional director (compliance) serving the region in which the special tax was paid. Similar procedure will govern in the case of a manufacturer of nonbeverage products who pays special tax of \$50 and has filed or intends to file claim for drawback covering distilled spirits used in excess of 50 proof gallons.

§ 197.56 [Amended]

Para. 85. Section 197.56 is amended by replacing in the first sentence of the paragraph the phrase "Form 843" with the phrase "Form 2635 (5620.8)."

Para. 86. Section 197.58 is revised to read as follows:

§ 197.58 Filing of claims.

Claim for refund of special tax shall be filed on ATF Form 2635 (5620.8). Claims shall be filed with the regional director (compliance) serving the region in which the special tax was paid. The claim shall set forth in detail and state each ground upon which it is made, and facts sufficient to apprise the regional director (compliance) of the exact basis thereof. The special tax stamp shall be attached to the claim.

§ 197.106 [Amended]

Para. 87. Section 197.106 is amended by replacing in the first sentence of the paragraph the phrase "Form 843 (original only)" with the phrase "Form 2635 (5620.8)."

Para. 88. Section 197.111 is revised to read as follows:

§ 197.111 Identification of special tax stamp.

If special tax has been paid, the claim shall be accompanied by a statement identifying the special tax stamp by serial number, denomination, and fiscal year for which issued.

PART 240—[AMENDED]

Para. 89. The authority citation for Part 240 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5111–5113, 5121, 5122, 5142, 5143, 5173, 5206, 5214, 5215, 5351, 5353, 5354, 5356–5357, 5361, 5362, 5364–5373, 5381–5388, 5391, 5392, 5551, 5552, 5661, 5662, 5684, 6065, 6091, 6109, 6301, 6302, 6311, 6651, 6676, 7011, 7302, 7342, 7502, 7503, 7606, 7805, 7851; 31 U.S.C. 9301, 9303, 9304, 9306.

Para. 90. The table of contents to 27 CFR Part 240 is amended by removing § 240.345.

§ 240.340 [Amended]

Para. 91. Section 240.340 is amended by replacing the phrase "Form 11" in the section with the phrase "Form 5630.5."

Para. 92. Section 240.343 is revised to read as follows:

§ 240.343 Annual special tax.

The special tax year commences on July 1 and ends on June 30 of the next year. All persons liable for special tax shall file Form 5630.5 in accordance with the instructions on the form and pay the special tax on or before July 1 of each tax year. If the Form 5630.5, with remittance, is not actually delivered on or before July 1, the date of the postmark stamped on the cover in which such return is mailed, if made by a United States post office, shall be deemed to be the date of filing.

Para. 93. Section 240.344 is revised to read as follows:

§ 240.344 Business commenced after July.

Where business is commenced after July, the tax will be prorated from the first day of the month in which the business was commenced to June 30 following. In such case, if the Form 5630.5, with remittance, is not actually delivered on or before the day on which the business was commenced, the date of the postmark stamped on the cover in which such return is mailed, if made by

the United States Postal Service, shall be deemed to be the date of filing.

§ 240.345 [Removed]

Para. 94. Section 240.345 is removed from the part.

§ 240.591 [Amended]

Para. 95. Section 240.591 is amended by replacing in paragraph (a) the citation "26 CFR 301.6311–1" with the citation "§ 70.66."

§ 240.591a [Amended]

Para. 96. Section 240.591a(c)(1) is amended by replacing in the sentence the phrase "the director of the service center, district director, or regional director (compliance)" with the word "ATF."

§ 240.594 [Amended]

Para. 97. Section 240.594 is amended by replacing in the second sentence of paragraph (a) the phrase "filed by forwarding or delivering it to the district director or the director of the service center" with the phrase "mailed to ATF" and by replacing in paragraph (b) the phrase "the district director, the director of the service center, or the regional director (compliance)" with the word "ATF."

Para. 98. Section 240.594c is amended by revising the second sentence of the paragraph to read as follows:

§ 240.594c Execution of Form SS–4. * * *

* * * The application shall be filed with the director of the service center as instructed on the Form SS–4.

§ 240.595 [Amended]

Para. 99. Section 240.595 is amended by replacing in the paragraph the citation "26 CFR 301.6311–1" with the citation "§ 70.66."

§ 240.596 [Amended]

Para. 100. Section 240.596 is amended by replacing in the first sentence of paragraph (a) the phrase "with remittance to the office of the district director or without remittance to the director of the service center" with the phrase "with or without remittance to ATF."

§ 240.807 [Amended]

Para. 101. Section 240.807 is amended by replacing in the third sentence of the paragraph the phrase "Form 843 (original only)" with the phrase "Form 2635."

PART 250—[AMENDED]

Para. 102. The authority citation for Part 250 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5001, 5007, 5008, 5041, 5051, 5061, 5111, 5112, 5114, 5121, 5122, 5124, 5146, 5205, 5207, 5232, 5301,

5314, 5555, 6301, 6302, 6804, 7101, 7102, 7651, 7652, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Para. 103. The table of contents to 27 CFR Part 250 is amended by revising the title to section 250.37 to read as follows:

PART 250—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

Subpart A—Introduction

Sec.
* * * * *

250.37 *United States Bureau of Alcohol, Tobacco and Firearms office.*
* * * * *

Para. 104. Section 250.11 is amended by removing from the definitions *Officer-in-Charge* and *United States Internal Revenue Service Office* and adding a definition *United States Bureau of Alcohol, Tobacco and Firearms office* to read as follows:

§ 250.11 Meaning of terms.

* * * * *
United States Bureau of Alcohol, Tobacco and Firearms office. The Bureau of Alcohol, Tobacco and Firearms office in Puerto Rico operating under the direction of the Regional Director (Compliance), North Atlantic Region, New York, NY 10048.
* * * * *

Para. 105. Section 250.37 is revised to read as follows:

§ 250.37 United States Bureau of Alcohol, Tobacco and Firearms office.

The United States Bureau of Alcohol, Tobacco and Firearms office is authorized to collect internal revenue taxes on liquors and articles subject to tax, which are to be shipped to the United States. Whenever the internal revenue tax is paid in Puerto Rico, other than by tourists in accordance with Subpart F of this part, the tax shall be paid to the United States Bureau of Alcohol, Tobacco and Firearms office as defined in this part and as provided in Subpart E of this part.

§ 250.44 [Amended]

Para. 106. Section 250.44 is amended by replacing in the paragraph the phrase "the director of the service center serving the internal revenue district in which the business is located" with the phrase "ATF in accordance with the instructions on the form" and the phrase "IRS Form 11" with the phrase "Form 5630.5."

§ 250.52 [Amended]

Para. 107. Section 250.52(c) is amended by replacing the term "quintuplicate" with the term "quadruplicate" and by removing the

phrase "forward one copy to the Officer-in-Charge."

§ 250.54 [Amended]

Para. 108. Section 250.54 is amended by replacing in the first sentence of the paragraph the term "quintuplicate" with the term "quadruplicate" and by removing in the second sentence the phrase "one copy to the Officer-in-Charge."

Para. 109. Section 250.61 is revised to read as follows:

§ 250.61 General.

Every person filing a bond under this subpart, or consent of surety on such bond, shall file it with the regional director (compliance). Any bond or consent of surety approved prior to July 1, 1987, by the Officer-in-Charge, United States Internal Revenue Service shall continue to be valid until terminated as provided in this subpart.

§ 250.62a [Amended]

Para. 110. Section 250.62a is amended by replacing the phrase "Officer-in-Charge" with the phrase "regional director (compliance)."

§ 250.65 [Amended]

Para. 111. Section 250.65 is amended by replacing the phrase "Officer-in-Charge" with the phrase "regional director (compliance)."

§ 250.70 [Amended]

Para. 112. Section 250.70 is amended by replacing the phrase "Officer-in-Charge" with the phrase "regional director (compliance)" in the first sentence.

§ 250.70a [Amended]

Para. 113. Section 250.70a is amended by replacing the phrase "Officer-in-Charge" with the phrase "regional director (compliance)."

§ 250.71 [Amended]

Para. 114. Section 250.71 is amended by replacing the phrase "Officer-in-Charge" wherever it appears with the phrase "regional director (compliance)."

§ 250.72 [Amended]

Para. 115. Section 250.72 is amended by replacing the phrase "Officer-in-Charge" wherever it appears with the phrase "regional director (compliance)."

§ 250.74 [Amended]

Para. 116. Section 250.74 is amended by replacing the phrase "Officer-in-Charge" wherever it appears with the phrase "regional director (compliance)."

§ 250.75 [Amended]

Para. 117. Section 250.75 is amended by replacing the phrase "Officer-in-

Charge" with the phrase "regional director (compliance)" in the first and third sentence of the paragraph and by removing the second sentence of the paragraph.

§ 250.78 [Amended]

Para. 118. Section 250.78 is amended by replacing in the first sentence the term "sextuplicate" with the term "quintuplicate."

§ 250.79 [Amended]

Para. 119. Section 250.79 is amended by replacing in paragraph (a) the term "quintuplicate" with the term "quadruplicate."

§ 250.81 [Amended]

Para. 120. Section 250.81 is amended by replacing the phrase "Officer-in-Charge" wherever it appears with the phrase "Chief, Puerto Rico Operations."

§ 250.93 [Amended]

Para. 121. Section 250.93 is amended by replacing in the first sentence the term "sextuplicate" with the term "quintuplicate" and by replacing in the last sentence the phrase "four copies" with the phrase "three copies."

§ 250.96 [Amended]

Para. 122. Section 250.96 is amended by replacing wherever it appears the phrase "Officer-in-Charge" with the phrase "Chief, Puerto Rico Operations" and by replacing at the end of the last sentence in paragraph (b) the phrase "each form for his files" with the phrase "Form 2928."

§ 250.102 [Amended]

Para. 123. Section 250.102 is amended by replacing in the first sentence the term "sextuplicate" with the term "quintuplicate" and by replacing in the last sentence the phrase "four copies" with the phrase "three copies."

§ 250.105 [Amended]

Para. 124. Section 250.105 is amended by replacing wherever it appears the phrase "Officer-in-Charge" with the phrase "Chief, Puerto Rico Operations" and by replacing at the end of the last sentence in paragraph (b) the phrase "each form for his files" with the phrase "Form 2930."

§ 250.110 [Amended]

Para. 125. Section 250.110 is amended by replacing wherever it appears the phrase "Officer-in-Charge" with the phrase "Chief, Puerto Rico Operations", by removing at the end of the second sentence the phrase "of each for his file", and by removing the third sentence.

Para. 126. Section 250.112 is amended by revising paragraphs (e) and (g) to read as follows:

§ 250.112 Taxes to be collected by returns for semimonthly periods.

(e) *Filing.* (1) The original and two copies of returns on Forms 5110.52, 2927 (5120.23), or 2929 (5130.17), with remittance covering the full amount of the tax, shall be filed with the Chief, Puerto Rico Operations not later than the 14th day after the last day of the return period, except as provided by paragraph (f) of this section. If the due date falls on a Saturday, Sunday, or legal holiday, the return and remittance shall be due on the immediately preceding day which is not a Saturday, Sunday, or legal holiday.

(2) The tax shall be paid in full by remittance at the time the return is filed, unless the proprietor is required to make remittances by electronic fund transfer in accordance with § 250.112a.

(3) The remittance may be in any form the Chief, Puerto Rico Operations is authorized to accept under the provisions of § 70.66 (payment by check or money order) and which is acceptable to the Chief, Puerto Rico Operations. A remittance by check or money order shall be made payable to the "Bureau of Alcohol, Tobacco and Firearms."

(4) When the return and remittance are delivered by U.S. Mail to the office of the Chief, Puerto Rico Operations, the date of the official postmark of the U.S. Postal Service stamped on the cover in which the return and remittance were mailed shall be treated as the date of delivery.

(g) *Default.* Where a taxpayer has defaulted in any payment of tax under this section, during the period of such default and until the regional director (compliance) finds that the revenue will not be jeopardized by deferred payment of tax under this section, the tax shall be prepaid by such taxpayer in accordance with the provisions of § 250.113. During such period, distilled spirits, wine, or beer shall not be released from bonded premises before the proprietor of the bonded premises has paid the tax thereon. In the event of default, the Chief, Puerto Rico Operations shall immediately notify the Secretary and the revenue agent at the premises that the tax is to be prepaid until further notice, and upon a finding that the revenue will not be jeopardized by resumption of deferred payment of tax under this section, the Chief, Puerto Rico Operations shall notify the Secretary

and the revenue agent that deferred payment may be resumed.

§ 250.112a [Amended]

Para. 127. Section 250.112a(c)(1) is amended by replacing in the paragraph the phrase "Officer-in-Charge" with the phrase "Chief, Puerto Rico Operations."

§ 250.113 [Amended]

Para. 128. Section 250.113(a) is amended by replacing in the paragraph the phrase "Officer-in-Charge" with the phrase "Chief, Puerto Rico Operations."

§ 250.119 [Amended]

Para. 129. Section 250.119 is amended by replacing in the paragraph the phrase "U.S. Internal Revenue Service officer" and "Officer-in-Charge" with the phrase "Chief, Puerto Rico Operations."

§ 250.126 [Amended]

Para. 130. Section 250.126 is amended by replacing the phrase "U.S. Internal Revenue Service office" wherever it appears with the phrase "Chief, Puerto Rico Operations", and by replacing in the second sentence of the paragraph the phrase "internal revenue receipt" with the phrase "an ATF receipt."

Para. 131. Section 250.128 is revised to read as follows:

§ 250.128 Taxpayment at port of arrival.

If the internal revenue tax on liquors and articles is not paid in Puerto Rico, it shall be paid by the tourist at the port of arrival prior to release of the liquors or articles from customs custody. The tax may be paid to the regional director (compliance), and an ATF receipt obtained, or the tax may be paid to the director of customs, who will issue a customs receipt. If payment is to be made to the regional director (compliance), the director of customs will notify the region of the amount of tax due. On payment of the tax to the director of customs, or on submission of the ATF receipt for the tax, the director of customs will release the liquors or articles.

§ 250.210 [Amended]

Para. 132. Section 250.210 is amended by replacing in the paragraph the phrase "the director of the service center serving the internal revenue district in which the business is located" with the phrase "ATF in accordance with the instructions on the form", and by replacing the phrase "IRS Form 11" with the phrase "Form 5630.5."

PART 251—[AMENDED]

Para. 133. The authority citation for Part 251 is revised to read as follows:

Authority: 5 U.S.C. 552(a); 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5041, 5051, 5054, 5061, 5111, 5112, 5114, 5121, 5122, 5124, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5555, 6302, 7805.

§ 251.11 [Amended]

Para. 134. Section 251.11 is amended by removing the definitions for *Director of the service center* and *District director*.

§ 251.30 [Amended]

Para. 135. Section 251.30 is amended by replacing in the paragraph the phrase "the director of the service center serving the internal revenue district in which the business is located" with the phrase "ATF in accordance with the instructions on the form" and by replacing the phrases "IRS Form 11" and "Form 11" wherever they appear with the phrase "Form 5630.5."

PART 270—[AMENDED]

Para. 136. The authority citation for Part 270 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5701, 5703, 5704, 5705, 5707, 5711, 5712, 5713, 5721, 5722, 5723, 5741, 5751, 5753, 5761, 5762, 6109, 6301, 6302, 6311, 6313, 6402, 6404, 6423, 6676, 7212, 7325, 7342, 7502, 7503, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

§ 270.44 [Amended]

Para. 137. Section 270.44 is amended by replacing in the fourth sentence of the paragraph the phrase "district director" with the phrase "regional director (compliance)."

§ 270.162 [Amended]

Para. 138. Section 270.162 is amended by replacing in the second sentence of the paragraph the phrase "the district director or the director of the service center" with the word "ATF."

Para. 139. Section 270.165 is amended by revising the first sentence of paragraph (c) to read as follows:

§ 270.165 Times for filing semimonthly return.

(c) *Postmark.* The official postmark of the U.S. Postal Service stamped on the cover in which the return was mailed shall be considered the date of delivery of the tax return and, if the return was accompanied by a remittance, the date of delivery of the remittance.

§ 270.165a [Amended]

Para. 140. Section 270.165a(c)(1) is amended by replacing in the paragraph the phrase "the director of the service center, district director, or regional director (compliance)" with the word "ATF."

§ 270.166 [Amended]

Para. 141. Section 270.166 is amended by replacing in the last sentence of the paragraph the citation "26 CFR 301.6311-1" with the citation "\$ 70.66."

§ 270.167 [Amended]

Para. 142. Section 270.167 is amended by replacing in paragraph (a) the phrase "the district director, director of the service center, or regional director (compliance)" with the word "ATF" and by replacing in paragraph (b) the phrase "and filing it, as instructed on the return, with the district director, director of the service center, or regional director (compliance)" with the phrase "and filing it with ATF."

§ 270.168 [Amended]

Para. 143. Section 270.168 is amended by replacing in the second sentence of the paragraph the phrase "district director" with the phrase "regional director (compliance)" and the citation "26 CFR 301.6311-1" with the citation "\$ 70.66" and by replacing in the third sentence of the paragraph the phrase "Internal Revenue Service" with the phrase "Bureau of Alcohol, Tobacco and Firearms."

§ 270.281 [Amended]

Para. 144. Section 270.281 is amended by replacing in the second sentence of the paragraph the phrase "Form 843" with the phrase "Form 2635 (5620.8)."

Para. 145. Section 270.283 is amended by replacing in the paragraph the phrase "Form 843" wherever it appears with the phrase "Form 2635 (5620.8)" and by revising the second sentence of the paragraph to read as follows:

§ 270.283 Credit or refund of tax.

* * * Any claim for credit or refund under this section shall be prepared on Form 2635 (5620.8), in duplicate. * * *

§ 270.286 [Amended]

Para. 146. Section 270.286 is amended by replacing in the paragraph the phrase "Form 843" with the phrase "Form 2635 (5620.8)."

Para. 147. Section 270.311 is amended by revising the second sentence of paragraph (b) to read as follows:

§ 270.311 Action by claimant.

(b) * * * For each claim involving large cigars withdrawn from the market the manufacturer shall include a certification on either Form 3069 (5200.7) or Form 2635 (5620.8) to read as follows:

Para. 148. Section 270.313 is amended by replacing in the paragraph the phrase "Form 843" with the phrase "Form 2635

(5620.8)" and revising the last sentence of the paragraph to read as follows:

§ 270.313 Disposition of cigars and cigarettes and schedule.

* * * In connection with a claim for allowance the officer shall return one copy of the schedule to be included in the manufacturers records, and in connection with a claim for credit or refund, the officer shall return the original and one copy of the schedule to the manufacturer, the original of which the manufacturer shall attach to the claim, Form 2635 (5620.8), filed under § 270.283.

PART 275—[AMENDED]

Para. 149. The authority citation for Part 275 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5701, 5703, 5704, 5705, 5708, 5722, 5723, 5741, 5762, 5763, 6301, 6302, 6313, 6404, 7101, 7212, 7342, 7606, 7652, 7652(a), 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

§ 275.11 [Amended]

Para. 150. Section 275.11 is amended by revising the definition for *Officer-in-Charge*.

§ 275.105 [Amended]

Para. 151. Section 275.105 is amended by removing the definition for *Officer-in-Charge* wherever it appears with the phrase "Chief, Puerto Rico Operations", replacing the term "triplicate" with the term "duplicate" in the first sentence of the paragraph, and replacing at the end of the second sentence of the paragraph the phrase "retain one copy, and forward the remaining copy to the Regional Director (compliance), Bureau of Alcohol, Tobacco and Firearms, New York, NY" with the phrase "and retain one copy."

§ 275.108 [Amended]

Para. 152. Section 275.108 is amended by replacing the phrase "Regional Director (compliance), Alcohol, Tobacco and Firearms, New York, New York" with the phrase "Chief, Puerto Rico Operations."

§ 275.109 [Amended]

Para. 153. Section 275.109 is amended by replacing the phrase "Officer-in-Charge" with the phrase "regional director (compliance)."

§ 275.110 [Amended]

Para. 154. Section 275.110 is amended by replacing in the first sentence of the paragraph the phrase "six copies of Form 2987" with the phrase "five copies of Form 2987 (5210.8)."

§ 275.111 [Amended]

Para. 155. Section 275.111 is amended by replacing in the first sentence of the paragraph the phrase "six copies of the Form 2987" with the phrase "five copies of the Form 2987 (5210.8)", by removing paragraph (a), by redesignating paragraphs (b), (c), (d), and (e) as paragraphs (a), (b), (c), and (d) respectively, and by replacing in the redesignated paragraph (d) the words "one copy" with the words "the original."

Para. 156. Section 275.112 is amended by revising the second sentence of the paragraph to read as follows:

§ 275.112 Tax return.

* * * The bonded manufacturer of such products shall prepare ATF Form 2988 in duplicate, and file the original with the Chief, Puerto Rico Operations, and maintain one copy for the file for each semimonthly return period. * * *

Para. 157. Section 275.114 is amended by revising paragraph (c) to read as follows:

§ 275.114 Time of filing.

(c) *Postmark*. If the return, and remittance as the case may be, are delivered by U.S. Mail to the office of the Chief, Puerto Rico Operations, the date of the official postmark of the U.S. Postal Service stamped on the cover in which the return, and remittance as the case may be, were mailed shall be treated as the date of delivery.

§ 275.114a [Amended]

Para. 158. Section 275.114a is amended by replacing in paragraphs (a) and (c) the phrase "Officer-in-Charge" with the phrase "regional director (compliance)."

§ 275.115 [Amended]

Para. 159. Section 275.115 is amended by replacing the phrase "Officer-in-Charge" with the phrase "Chief, Puerto Rico Operations." and the citation "26 CFR 301.6311-1" with the citation "\$ 70.66."

§ 275.115a [Amended]

Para. 160. Section 275.115a is amended by replacing in paragraph (c)(1) the phrase "Officer-in-Charge" with the phrase "Chief, Puerto Rico Operations."

§ 275.116 [Amended]

Para. 161. Section 275.116 is amended by replacing the phrase "Officer-in-Charge" with the phrase "regional director (compliance)."

§ 275.118 [Amended]

Para. 162. Section 275.118 is amended by replacing the phrase "Regional Director (compliance), Alcohol, Tobacco and Firearms, New York, New York" with the phrase "Chief, Puerto Rico Operations."

§ 275.123 [Amended]

Para. 163. Section 275.123 is amended by replacing the phrase "Officer-in-Charge" wherever it appears with the phrase "regional director (compliance)."

§ 275.125 [Amended]

Para. 164. Section 275.125 is amended by replacing the phrase "Officer-in-Charge" wherever it appears with the phrase "regional director (compliance)."

§ 275.126 [Amended]

Para. 165. Section 275.126 is amended by replacing the phrase "Officer-in-Charge" wherever it appears with the phrase "regional director (compliance)."

§ 275.127 [Amended]

Para. 166. Section 275.127 is amended by replacing the phrase "Officer-in-Charge" wherever it appears with the phrase "regional director (compliance)."

§ 275.129 [Amended]

Para. 167. Section 275.129 is amended by replacing the phrase "Officer-in-Charge" wherever it appears with the phrase "regional director (compliance)."

§ 275.137 [Amended]

Para. 168. Section 275.137 is amended by replacing in the fourth sentence of the paragraph the phrase "Supervisor in Charge, Alcohol and Tobacco Tax, Puerto Rico" with the phrase "Chief, Puerto Rico Operations."

§ 275.161 [Amended]

Para. 169. Section 275.161 is amended by replacing in the paragraph the phrase "Form 843" with the phrase "Form 2635 (5620.8)."

§ 275.163 [Amended]

Para. 170. Section 275.163 is amended by replacing in the paragraph the phrase "Form 843" with the phrase "Form 2635 (5620.8)."

§ 275.170 [Amended]

Para. 171. Section 275.170(b) is amended by removing from the paragraph the phrase "For each claim involving large cigars withdrawn from the market the importer shall include a certification on either ATF Form 3069 (5200.7), ATF Form 2635 (5620.8), or IRS Form 843, to read as follows:" with the phrase "For each claim involving large cigars withdrawn from the market the importer shall include a certification on

either ATF Form 3069 (5200.7) or ATF Form 2635 (5620.8) to read as follows:"

§ 275.172 [Amended]

Para. 172. Section 275.172(b) is amended by removing from the paragraph the phrase "For each claim involving large cigars withdrawn from the market the importer shall include a certification on either ATF Form 3069 (5200.7), ATF Form 2635 (5620.8), or IRS Form 843, to read as follows:" with the phrase "For each claim involving large cigars withdrawn from the market the importer shall include a certification on either ATF Form 3069 (5200.7) or ATF Form 2635 (5620.8) to read as follows:".

PART 285—[AMENDED]

Para. 173. The authority citation for Part 285 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5701, 5703-5705, 5711, 5721-5723, 5741, 5751, 5753, 5761-5763, 6109, 6302, 6402, 6404, 6676, 7212, 7325, 7342, 7606; 31 U.S.C. 9301, 9303, 9304, 9306.

§ 285.25 [Amended]

Para. 174. Section 285.25(d) is amended by replacing in the paragraph the phrase "the district director, director of the service center, or regional director (compliance)" with the word "ATF."

§ 285.26 [Amended]

Para. 175. Section 285.26 is amended by replacing in the paragraph the phrase "Form 843" with the phrase "Form 2635 (5620.8)."

§ 285.27 [Amended]

Para. 176. Section 285.27(c) is amended by replacing in the paragraph the phrase "the director of the service center, district director, or regional director (compliance)" with the word "ATF."

§ 285.34 [Amended]

Para. 177. Section 285.34 is amended by replacing in the fourth sentence of the paragraph the phrase "district director" with the phrase "regional director (compliance)."

§ 285.171 [Amended]

Para. 178. Section 285.171 is amended by replacing in the paragraph the phrase "Form 843" with the phrase "Form 2635 (5620.8)."

Para. 179. Section 285.173 is amended by revising the second and fifth sentence of the paragraph to read as follows:

§ 285.173 Credit or refund.

* * * Any claim for credit or refund under this section shall be prepared on Form 2635 (5620.8), in duplicate.

* * * The original and one copy of

Form 2635 (5620.8) shall be filed with the regional director (compliance) for the region in which the tax was paid, or where the tax was paid in more than one region with the regional director (compliance) for any one of the regions in which the tax was paid. * * *

Para. 180. Section 285.193 is amended by revising the fourth sentence of the paragraph to read as follows:

§ 285.193 Disposition of cigarette papers and tubes and schedule.

* * * In connection with a claim for credit or refund, the manufacturer shall attach the original of the schedule to the claim, Form 2635 (5620.8), filed under § 285.173. * * *

PART 290—[AMENDED]

Para. 181. The authority citation for Part 290 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5701, 5703-5705, 5711, 5721-5723, 5741, 5751, 5753, 5761-5763, 6109, 6301, 6302, 6313, 6402, 6404, 6676, 7101, 7212, 7325, 7342, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

§ 290.67 [Amended]

Para. 182. Section 290.67 is amended by replacing in the second sentence of paragraph (a) the phrase "the district director of internal revenue, for the district in which the factory or export warehouse is located" with the word "ATF" and by replacing the phrase "ATF Form 4640 (5600.5)" with the phrase "ATF Form 5000.24" in the last sentence of paragraph (a).

§ 290.153 [Amended]

Para. 183. Section 290.153 is amended by replacing in the paragraph the phrase "Form 843" with the phrase "Form 2635 (5620.8)."

§ 290.154 [Amended]

Para. 184. Section 290.154 is amended by replacing in the paragraph the phrase "Form 843" with the phrase "Form 2635 (5620.8)."

PART 295—[AMENDED]

Para. 185. The authority citation for Part 295 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5701, 5703-5705, 5711, 5721-5723, 5741, 5751, 5753, 5761-5763, 6109, 6301, 6302, 6313, 6402, 6404, 6676, 7212, 7325, 7342, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

§ 295.36 [Amended]

Para. 186. Section 295.36 is amended by replacing in the first sentence of the paragraph the phrase "district director, for the district" with the phrase "regional director (compliance), for the region."

PART 296—[AMENDED]

Para. 187. The authority citation for Part 296 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5701, 5703–5705, 5711, 5721–5723, 5741, 5751, 5753, 5761–5763, 6109, 6301, 6302, 6313, 6402, 6404, 6676, 7101, 7212, 7325, 7342, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

§ 296.7 [Amended]

Para. 188. Section 296.7 is amended by replacing in the paragraph the phrase "Form 843" with the phrase "Form 2635 (5620.8)."

§ 296.74 [Amended]

Para. 189. Section 296.74 is amended by replacing in the paragraph the phrase "Internal Revenue Service Form 843" with the phrase "Form 2635 (5620.8)."

Signed: April 23, 1987.

W.T. Drake,
Acting Director.

Approved: May 1, 1987.

John P. Simpson,

Acting Assistant Secretary (Enforcement).

[FR Doc. 87-11152 Filed 5-21-87; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR**National Park Service****36 CFR Part 7****Buffalo National River, Arkansas;
Fishing Regulations**

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: These special regulations allow fishing activities to continue at Buffalo National River in the traditional manner in accordance with State of Arkansas regulations except when the Superintendent may designate otherwise. It will allow the gigging of rough fish, use of attended trot lines, and noncommercial capture of bait fish, using traps or seines. It will also allow the collection and possession of terrestrial and aquatic insects by hand or hand net for use as bait. It will allow the taking of frogs, turtles and crayfish by traditional methods as designated by the Superintendent. These traditional activities were no longer allowed after April 30, 1984, when the new general regulations for the National Park Service became effective. These special regulations permit a level of public use and enjoyment of park resources consistent with the establishment of Buffalo National River to provide for both preservation and recreational use.

EFFECTIVE DATE: June 22, 1987.

FOR FURTHER INFORMATION CONTACT:

Alec Gould, Superintendent, Buffalo National River, P.O. Box 1173, Harrison, Arkansas 72602-1173, Telephone: (501) 741-5443.

SUPPLEMENTARY INFORMATION:**Background**

These regulations authorize recreational fishing methods that are now prohibited by the general regulations. In order to relax restrictions on fresh water recreational fishing, the regulations apply fishing methods that are allowed under State laws as appropriate. They allow visitors to Buffalo National River to continue the traditional, recreational activities that have occurred along the Buffalo River for many years. These activities are consistent with the purposes for which the park was established and will not, in the opinion of the National Park Service, have an adverse impact on the ecosystem, other species of wildlife or the reproductive potential of the species involved. These activities were legitimate recreational activities until the revised general regulations of the National Park Service became effective on April 30, 1984.

This regulation will allow the use of trot lines and limb lines along the river as long as the owner of these lines is present in the area and the lines are not placed in a manner hazardous to canoeists and are removed when the owner leaves. It will also allow the continued use of seines and minnow traps to capture native bait fish for bait. This will help prevent the introduction of exotic fish species into the river since most commercial bait fish dealers do not sell native minnows. It will not allow commercial bait fish operations to operate within the park. They will also authorize the capture of crayfish and both terrestrial and aquatic insects for use as bait, and the gigging of rough fish as defined by State regulations. Visitors will also be permitted to capture frogs, turtles and crayfish for personal consumption as well.

Conditions for collection of insects will restrict capture techniques to hand capture or the use of hand nets. Similar restrictions will be applied to the capture of crayfish which can be captured by hand, hand-held net or seine or by baited hand lines. Neither insects, frogs, turtles nor crayfish can be captured for commercial purposes and the Superintendent may restrict these activities as necessary.

Also, as part of this rulemaking, the National Park Service is redesignating as Paragraph (c) the existing text in § 7.35 that pertains to the use of motors

on boats. Although some editorial changes have been made for the purpose of clarification, the regulatory provisions remain the same and do not constitute new provisions.

The National Park Service, Department of the Interior, published in the *Federal Register* (51 FR 23616) on October 20, 1986, and provided a 30-day public review and comment period. No comments were received. As a result, the proposed rule is published unchanged as a final rule.

Drafting Information

The following persons participated in the writing of these regulations: Carl E. Hinrichs, Chief, Resource Management and Visitor Protection, and Keith A. Whisenant, Resource Management Specialist, both of Buffalo National River.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance with Other Laws

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 (February 19, 1981), 46 FR 13193, and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The economic effects of this rulemaking are negligible. The regulations do not impose additional costs on individuals using Buffalo National River.

The Service has determined that this rulemaking will not have a significant effect on the quality of the human environment, health and safety because it is not expected to:

a. Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it.

b. Introduce noncompatible uses which might compromise the nature and characteristics of the area, or cause physical damage to it.

c. Conflict with adjacent ownerships or land uses; or

d. Cause a nuisance to adjacent owners or occupants.

Based on this determination, this rulemaking is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental Regulations in 516 DM6, (49 FR 21438). As such, neither an Environmental Assessment nor an