Sunshine Act Meetings

Federal Register
Vol. 53, No. 95
Tuesday, May 17, 1988

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:04 p.m. on Thursday, May 12, 1988, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to an assistance agreement pursuant to section 13(c) of the Federal Deposit Insurance Act.

In calling the meeting, the Board determined, on motion of Director C. C. Hope, Jr. (Appointive), seconded by Mr. Dean S. Marriott, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550 17th Street NW., Washington, DC.

Dated: May 13, 1988.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 88-11134 Filed 5-13-88; 3:46 pm]

BILLING CODE 6714-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

May 12, 1988.

TIME AND DATE: 10:00 a.m., Thursday, May 19, 1988.

PLACE: Room 600, 1730 K Street NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Local Union 2274, UMWA* v. *Clinchfield Coal Co.,* Docket No. VA 83-55-C. (Issues include whether the Administrative Law Judge erred in awarding compensation to miners in proceedings on remand from a prior Commission decision.)

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 20 CFR 2706.150(a)(3) and 2706.160(e).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202 653-5629/(202) 566-2673 for TDD Relay.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 88-11110 Filed 5-13-88; 1:54 pm]

BILLING CODE 6735-01-M

NATIONAL MEDIATION BOARD

TIME AND DATE: 2:00 p.m., Wednesday, June 8, 1988.

PLACE: Board Hearing Room 8th Floor, 1425 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of the Board actions taken by notation voting during the month of May, 1988.
2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Director's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Charles R. Barnes, Executive Director, Tel: (202) 523-5920.

Date of Notice: May 9, 1988.

Charles R. Barnes,

Executive Director, National Mediation Board.

[FR Doc. 88-11061 Filed 5-13-88; 10:01 am]

BILLING CODE 7550-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m., Tuesday, May 24, 1988.

PLACE: Board Room, Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Railroad Accident Report: Head on Collision of Southern Pacific Transportation Company Freight Trains Extra 7267 East and Extra 7791 West, at Yuma, Arizona, June 15, 1987.
2. Highway Accident Report: Academy Lines, Inc., Intercity Bus Run-Off-Road and Overturn, Middletown, New Jersey, September 6, 1987.

FOR MORE INFORMATION CONTACT: Bea Hardesty (202) 382-6525.

Bea Hardesty

Federal Register Liaison Officer.

May 13, 1988.

[FR Doc. 88-11135 Filed 5-13-88; 3:46 pm]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of May 16, 23, 30, and June 6, 1988.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of May 16

Tuesday, May 17

2:00 p.m.
Briefing by DOE on High Level Waste Program (*Public Meeting*)

Wednesday, May 18

2:00 p.m.
Annual Briefing by INPO (*Public Meeting*)

Thursday, May 19

2:00 p.m.
Briefing on NAS Human Factor Recommendations (*Public Meeting*)

3:30 p.m.
Affirmation/Discussion and Vote (*Public Meeting*) (if needed)

Friday, May 20

10:00 a.m.
Discussion/Possible Vote of Full Power Opeating License for Braidwood-2 (*Public Meeting*)

Week of May 23—Tentative

Thursday, May 26

3:30 p.m.
Affirmation/Discussion and Vote (*Public Meeting*) (if needed)

Week of May 30—Tentative

Tuesday, May 31

2:00 p.m.
Briefing on Human Factors Program and NRC Views of NAS Recommendations (*Public Meeting*)

Wednesday, June 1

2:00 p.m.

Briefing on Master Plan for Integrating All Severe Accident Issues (*Public Meeting*)

3:30 p.m

Affirmation//Discussion and vote (*Public Meeting*) (if needed)

Friday, June 3

10:00 a.m.

DOE Briefing on LLW Program, West Valley Demonstration Project and Uranium Mill Tailings Remedial Action Project (*Public Meeting*)

Week of June 6—Tentative

Thursday, June 9

10:00 a.m.

Briefing on Status of Pilgrim (*Public Meeting*)

11:30 a.m.

Affirmation/Discussion and Vote (*Public Meeting*) (if needed)

ADDITIONAL INFORMATION: Affirmation of "Motion to Modify or Quash Subpoenas in Farley Nuclear Plant Investigation" (*Public Meeting*) was held on May 6. Affirmation of "Final Rule Amendments to 10 CFR Parts 30, 40, 50, 51, 70, and 72: General Requirements for Decommissioning Nuclear Facilities (SECY-87-309)" (*Public Meeting*) was held on May 12.

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To verify the status of meetings call (recording)—(301) 492-0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492-1661.

William M. Hill, Jr.,

Office of the Secretary.

May 12, 1988.

[FR Doc. 88-11137 Filed 5-13-88; 4:02 pm]

BILLING CODE 7590-01-M

Corrections

Federal Register
Vol. 53, No. 95
Tuesday, May 17, 1988

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

Department of the Air Force

Department of the Navy

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[8-00154 I-LM]

Special Nevada Report; Meetings

Correction

In notice document 88-9473 beginning on page 15272 in the issue of Thursday, April 28, 1988, make the following correction:

On page 15272, in the third column, under **DATES**, in the 13th line, the date for the Fallon, Nevada, meeting should read "May 18".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 704

[OPTS-82032; FRL-3372-6]

EDTMPA and its Salts; Submission of Notice of Manufacture or Import

Correction

In proposed rule document 88-9522 beginning on page 15428 in the issue of Friday, April 29, 1988, make the following corrections:

1. On page 15429, in the table, in the right column, in the 12th entry, after "(methylene)]" insert "]".

§ 704.95 [Corrected]

2. On page 15431, in § 704.95(a), in the table, in the right column, in the fifth entry, after "[[" insert "[".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51703; FRL-3370-2]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

Correction

In notice document 88-9100 beginning on page 14839 in the issue of Tuesday, April 26, 1988, make the following corrections:

1. On page 14840, in the third column, under "*P 88-668*", in the fifth line, "l-amino" should read "1-amino".

2. On page 14842, in the second column, in the last line, insert a hyphen between "4" and "isononyl".

3. On page 14843, in the first column, under "*P 88-729*", in the fifth line, insert a dash between "10,200" and "42,000".

4. On page 14849, in the first column, under "*P 88-882*", in the third line, insert a hyphen between "2-" and "Propenoxy".

5. On page 14850, in the first column, under "*P 88-907*", in the eighth line ">0" should read ">4.0".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 868

[Docket No. 83N-0193]

Medical Devices; Offers To Submit or To Develop a Performance Standard for Breathing Frequency Monitor (Neonatal Apnea Monitor)

Correction

In proposed rule document 88-8874 beginning on page 13296 in the issue of Friday, April 22, 1988, make the following correction:

On page 13297, in the third column, in the third complete paragraph, in the sixth line, "FDS" should read "FDA".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 57

Grants for Residency Training in General Internal Medicine and General Pediatrics

Correction

In proposed rule document 88-9779 beginning on page 15710 in the issue of Tuesday, May 3, 1988, make the following corrections:

1. On page 15712, in the first column, in paragraph 6., in the third line, "residency" was misspelled.

2. On the same page, in the second column, in the paragraph headed **Regulatory Flexibility Act and Executive Order 12291**, the 15th and 16th lines should be removed.

§ 57.3104 [Corrected]

3. On page 15713, in the second column, in paragraph (d), in the last line, between "of" and "§ 57.3105(a)(11)", insert "§ 57.3105 with special attention to the requirements of".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO-940-08-4220-10; COC 48469]

Proposed Withdrawal and Opportunity for Public Meeting; Colorado

Correction

In notice document 88-9933 beginning on page 16196 in the issue of Thursday, May 5, 1988, make the following corrections:

1. On page 16196, in the third column, under "*Pike National Forest*" the eighth line should read "Sec. 33, SE¼SE¼ and S½NE¼SE¼".

2. On page 16197, in the first column, "T. 13 S., R. 73 W.," should read "T. 13 S., R. 72 W.,".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87-ANM-11]

Alteration of Transition Area, Missoula, MT; Correction

Correction

In rule document 88-7885 beginning on page 11840 in the issue of Monday, April 11, 1988, make the following corrections:

§ 71.181 [Corrected]

. On page 11841, in the first column, in § 71.181, under "Missoula, Montana (Revised)", in the 7th line, "northwest" should read "northeast", and in the 12th line "southwest" should read "southeast".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 88-ASW-18]

Alteration of VOR Federal Airways; TX

Correction

In rule document 88-10146 beginning on page 16387 in the issue of Monday, May 9, 1988, make the following correction:

On page 16387, in the third column, under **DATES**, in the fourth line, "June 7, 1988" should read "June 17, 1988".

BILLING CODE 1505-01-D

federal register

Tuesday
May 17, 1988

Part II

Department of the Treasury

Bureau of Alcohol, Tobacco, and Firearms

27 CFR Parts 19, etc.

Occupational Taxes Relating to Alcohol, Tobacco, and Firearms; Treasury Decision, Final Rule

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco, and Firearms

27 CFR Parts 19, 20, 22, 25, 70, 179, 194, 197, 231, 240, 250, 270, 285, and 290

[T.D. ATF-271]

Occupational Taxes Relating to Alcohol, Tobacco, and Firearms

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

ACTION: Treasury decision, Final rule.

SUMMARY: This final rule implements section 10512 of the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203. This section amended the Internal Revenue Code to require alcohol, tobacco and National Firearms Act (NFA) proprietors to pay new or increased special (occupational) taxes. Proprietors become liable for the new or increased special taxes as of January 1, 1988. However, proprietors in business on January 1, 1988, will have until April 1, 1988, to file special tax returns and pay these occupational taxes. Thereafter, the taxes will be due July 1 of each year.

EFFECTIVE DATE: January 1, 1988.

FOR FURTHER INFORMATION CONTACT: Robert White or Steve Simon, Wine and Beer Branch (202-566-7626), or Shirley Osborne, Distilled Spirits and Tobacco Branch (202-566-7531), Ariel Rios Federal Building, 1200 Pennsylvania Avenue NW., Washington, DC 20226.

SUPPLEMENTARY INFORMATION:

Background

Special (occupational) tax is imposed on persons who are engaged in certain specified occupations. Prior to Pub. L. 100-203, the tax was imposed on the following occupations under ATF's jurisdiction: Wholesale and retail dealers in liquor (spirits, wine, and/or beer), wholesale and retail dealers in beer only, limited retail dealers, brewers, manufacturers of nonbeverage products (MNBP), and importers, manufacturers and dealers in NFA firearms (including importers, manufacturers and dealers in weapons classified as "any other weapon"). Public Law 100-203 increased the special tax rates for most proprietors who currently pay special tax, and imposed new special taxes on proprietors under ATF's jurisdiction who do not currently have to pay special tax. The new law repealed the special (occupational) tax formerly imposed upon limited retail dealers. The term "limited retail dealer," which is defined in 26 U.S.C. 5122(c), refers to persons who sell alcoholic beverages at events of limited duration, such as lodge picnics, county fairs, etc.

New Occupational Taxes

Special (occupational) taxes have been imposed for the first time on the occupations shown in the following chart. These new taxes apply equally to Federal, State, and local government agencies and instrumentalities engaged in any of the taxable activities. The new special taxes are imposed at the following rates:

RATES OF NEW TAXES

Type of proprietor	Rate per year
Distilled spirits plant (including alcohol fuel plants, experimental plants, and university research plants)	$1,000
Distilled spirits plant (gross receipts in previous taxable year less than $500,000)	500
Bonded wine cellar	1,000
Bonded wine cellar (gross receipts in previous taxable year less than $500,000)	500
Bonded wine warehouse	1,000
Bonded wine warehouse (gross receipts in previous taxable year less than $500,000)	500
Taxpaid wine bottling house	1,000
Taxpaid wine bottling house (gross receipts in previous taxable year less than $500,000)	500
Dealer in specially denatured distilled spirits	250
User of specially denatured distilled spirits (including recoverer of specially or completely denatured distilled spirits)	250
Proprietor who procures or uses tax free alcohol under 26 U.S.C. 5214(a) (2) or (3)	250
Manufacturer of tobacco products	1,000
Manufacturer of tobacco products (gross receipts in previous taxable year less than $500,000)	500
Manufacturer of cigarette papers and tubes	1,000
Manufacturer of cigarette papers and tubes (gross receipts in previous taxable year less than $500,000)	500
Export warehouse proprietor	1,000
Export warehouse proprietor (gross receipts in previous taxable year less than $500,000)	500

Increased Occupational Taxes

Special (occupational) taxes have been increased for wholesale and retail liquor dealers, wholesale and retail beer dealers, manufacturers of nonbeverage products (MNBP), brewers, and importers, manufacturers and dealers of National Firearms Act (NFA) firearms. The new law also eliminated the separate tax category for importers, manufacturers, and dealers in weapons classified as "any other weapon." These proprietors must pay special taxes at the same rate as other NFA firearms proprietors. The increased tax rates are shown below:

INCREASED ANNUAL TAX RATES

Type of proprietor	Old rate	New rate
Wholesale liquor dealer	$255	$500
Wholesale beer dealer	123	500
Retail liquor dealer	54	250
Retail beer dealer	24	250
Brewer	110	1,000
Brewer (less than 500 barrels per year)	55	1,000
Brewer (gross receipts in previous taxable year less than $500,000)	110	500
Brewer (less than 500 barrels per year; gross receipts in previous taxable year less than $500,000)	55	500
Manufacturer of nonbeverage products (25 proof gallons or less)	25	500
Manufacturer of nonbeverage products (50 proof gallons or less)	50	500
Manufacturer of nonbeverage products (more than 50 proof gallons)	100	500
Class 1—Importer of NFA firearms	500	1,000
Class 1—Importer of NFA firearms (gross receipts in previous taxable year less than $500,000)	500	500
Class 2—Manufacturer of NFA firearms	500	1,000
Class 2—Manufacturer of NFA firearms (gross receipts in previous taxable year less than $500,000)	500	500
Class 3—Dealer in NFA firearms	200	500
Class 4—Importer only of weapons classified as "any other weapon"	25	(1)
Class 5—Manufacturer only of weapons classified as "any other weapon"	25	(2)
Class 6—Dealer only in weapons classified as "any other weapon"	10	(3)

[1] Same as class 1.
[2] Same as class 2.
[3] Same as class 3.

Reduced Occupational Taxes for Small Proprietors

For certain occupations, as indicated in the above charts, small proprietors are taxed at a reduced rate. To qualify for the reduced rate, a proprietor must have gross receipts (for the most recent taxable year) of less than $500,000. "Taxable year" in this context refers to the taxpayer's income tax year, not the special (occupational) tax year. The term "gross receipts" means all of the taxpayer's gross receipts—not just those derived from the business subject to special tax. Gross receipts are reduced by returns and allowances made during the taxable year, as provided in 26 U.S.C. 448(c)(3). Gross receipts for any taxable year of less than 12 months shall be annualized by multiplying the gross receipts for the short period by 12 and dividing the result by the number of months in the short period, as required by 26 U.S.C. 448(c)(3).

All persons treated as one taxpayer under 26 U.S.C. 5061(e)(3) (pertaining to "controlled groups") shall be treated as one taxpayer for purposes of determining eligibility for the reduced rate of tax. Proprietors of new businesses that have not yet begun a taxable year, as well as proprietors of existing businesses that have not yet ended a taxable year, who commence a new activity subject to special tax, are eligible for the reduced tax rate unless the business is a member of a "controlled group." Complete rules for determining eligibility for the reduced special (occupational) tax rate are contained in the regulations prescribed by this Treasury decision.

Filing of Return and Payment of Special Tax

Every person who engages in a business subject to special (occupational) tax is required to file a special tax return, ATF Form 5630.5, with payment of tax, before commencing operations. Form 5630.5 shall be completed in accordance with the instructions on the form and shall be mailed, along with remittance, to the address indicated on the form. Thereafter, the taxpayer will receive a bill on Form 5630.5 prior to the first day of July in each year. The bill will contain certain preprinted information. The taxpayer shall complete and sign the Form 5630.5 in accordance with the instructions on the form and mail the form, along with remittance, to the address indicated on the form. If the taxpayer does not receive a renewal notice on ATF Form 5630.5 before the tax is due, the taxpayer shall obtain a blank ATF Form 5630.5 from any ATF office and complete the form in accordance with the instructions on the form. The taxpayer shall then mail the completed tax return form, with remittance, to the address indicated on the form.

Special (occupational) taxes are normally prorated for new proprietors who commence operations after July 1 of the tax year. The only exceptions are manufacturers, importers, and dealers in NFA firearms, and manufacturers of nonbeverage products. Those proprietors must pay the full annual special tax for the tax year during which they commence operations. For all others, the initial tax is computed from the first day of the month in which liability is incurred until the 30th day of June following. Tax in subsequent years is computed for the entire tax year (July 1 through June 30). Complete procedures for the preparation and filing of special tax returns and the payment of the tax are prescribed in the regulations amended by this final rule.

Any person required by law to file a return and pay tax who fails to file the return and pay tax on or before the last day prescribed shall pay, as an addition to the tax, a penalty for both failure to file a return and for failure to pay the tax. In addition, interest is due on unpaid special tax from the date the tax was required to be paid to the date paid. Interest shall be charged for each day at the rate prescribed by law in effect on that day. For more information concerning the computation of penalties and interest, refer to Subpart E of 27 CFR Part 70 and Subpart H of 27 CFR Part 194.

Transition Rule

The new regulations on special (occupational) tax take effect on January 1, 1988. However, taxpayers who were in business on that date will not have to file a tax return and pay the increased or new tax until April 1, 1988. Thereafter, the tax return must be filed and the tax paid on or before July 1 of each year.

For purposes of determining the amount of increased or new occupational tax due on April 1, 1988, under this transition rule, any person engaged on January 1, 1988, in any trade or business subject to such a tax shall be treated as having first engaged in the taxable trade or business on that date. If the taxpayer previously paid an occupational tax in respect of any premises for taxable period which began before January 1, 1988, and includes that date, the increased occupational tax imposed by this transition rule in respect of those premises shall not exceed one-half the excess (if any) of—

(a) The annual rate of occupational tax in effect on January 1, 1988, over

(b) The annual rate of such tax in effect on December 31, 1987.

Filing of Return and Payment of Special Tax During Transition Period

During the period between January 1, 1988, and April 1, 1988, taxpayers of record will be sent a bill on one of three supplemental forms. If the taxpayer owed but did not pay special tax for the current tax year, then the taxpayer will be sent ATF Form 5630.5 Supplemental 1 to cover the delinquent tax due plus the tax for the transition period between January 1, 1988, and June 30, 1988. If the taxpayer paid special tax for the current year, the taxpayer will be sent ATF Form 5630.5 Supplemental 2 to cover the increased tax for the transition period between January 1, 1988, and June 30, 1988. If the taxpayer was not previously required to pay special tax but is now required to pay special tax due to the change in the law, the taxpayer will be sent AFT Form 5630.5 Supplemental 3 to cover the tax for the transition period between January 1, 1988, and June 30, 1988.

Taxpayers who receive either ATF Form 5630.5 Supplemental 1, 2, or 3 shall fill out the form in accordance with the instructions on the form and shall mail the form, with remittance of tax, on or before April 1, 1988, to the address indicated on the form. If a taxpayer does not receive a bill on ATF Form 5630.5 Supplemental 1, 2, or 3, he or she is still required to file a tax return and pay the tax on or before April 1, 1988, in accordance with the transition rule described earlier in this preamble. Tax returns may be obtained by contacting any ATF office. The taxpayer shall then mail the return, with remittance, to the address indicated on the form.

Examples of Transition Rule

Example 1

A wholesale beer dealer is in business as of January 1, 1988, and has previously paid special tax at the rate of $123 a year for the period July 1, 1987, through June 30, 1988. This dealer would become liable for the additional tax on January 1, 1988, but would not have to file the tax return or pay the additional tax until April 1, 1988. The tax would cover the period from January 1, 1988, through June 30, 1988. The tax would be computed as one-half the difference between the new tax rate and the old tax rate. This computation would be as follows: ½($500−$123)= ½($377)=$188.50.

Example 2

A proprietor of a distilled spirits plant is in business as of January 1, 1988. Previous law and regulations did not require such proprietors to pay special (occupational) taxes so none was paid. The distilled spirits plant proprietor would become liable for the new tax on January 1, 1988, but would not be required to file the tax return or pay the new tax until April 1, 1988. The tax would cover the period from January 1, 1988, through June 30, 1988. The tax would be computed as one-half the difference between the new tax rate and the old tax rate. This computation would be as follows: ½($1000−$0)= ½($1000)=$500.

If the gross receipts of the distilled spirits plant proprietor (for the most recent taxable year ending before the first day of the taxable period to which the special (occupational) tax relates) are less than $500,000, then the proprietor would qualify for the reduced rate of $500 per year. In this example, such a small proprietor would only be required to pay one-half the reduced rate. Therefore, the proprietor would pay $250 on or before April 1, 1988.

Example 3

A manufacturer of NFA firearms began business on December 15, 1987. Since special tax for this proprietor is not prorated, the proprietor filed a tax return and paid tax in the amount of $500 for the period covering December 15, 1987 through June 30, 1988. The proprietor would become liable for the additional tax on January 1, 1988, but would not have to file the tax return or pay the additional tax until April 1, 1988. The tax would cover the period from January 1, 1988, through June 30, 1988. The tax would be computed as one-half the difference between the new tax rate and the old tax rate. This computation would be as follows: ½($1000 −$500) = ½($500) = $250.

If this manufacturer had gross receipts of less than $500,000 and thus qualified for the reduced rate as a small proprietor, the tax owed in this example would be ½($500 − $500) which would be zero. In this case, the proprietor should file a tax return but would show zero balance due.

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," because the economic effects flow directly from the underlying statute and not from this final rule. Therefore, it is found that this final rule 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 effects 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 special (occupational) tax return has been previously approved by the Office of Management and Budget under Control Number 1512–0472.

Administrative Procedure Act

Because this final rule merely implements a law which has increased special (occupational) taxes and imposed new special (occupational) taxes on alcohol, tobacco and NFA firearms proprietors, and because immediate guidance is necessary to implement the new and increased tax rates, it is found to be unnecessary and impracticable 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 Robert White and Steve Simon of the Wine and Beer Branch, and Shirley Osborne of the Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 19

Administrative practice and procedure, Alcohol and alcoholic beverage, 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, Stills, Surety bonds, Transportation, Vinegar, Virgin Islands, Warehouses, Wine.

27 CFR Part 20

Administrative practice and procedure, Advertising, Alcohol and alcohol beverages, Authority delegatons (Government agencies), Chemicals, Claims, Cosmetics, Excise taxes.

27 CFR Part 22

Administrative practice and procedure, Advertising, Alcohol and alcohol beverages, Authority delegations (Government agencies), Claims, Excise taxes, Reporting and recordkeeping requirements, Surety bonds.

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 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, 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 231

Administrative practice and procedure, Authority delegations (Government agencies), Labeling, Packaging and containers, Reporting requirements, Wine.

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, Beer, Claims, Customs duties and inspection, Drugs, Electronic funds transfers, Excise taxes, Foods, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Spices and flavorings, Surety bonds, Transportation, Virgin Islands, Warehouses, 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 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.

Issuance

Title 27 CFR is amended as follows:

PART 19—DISTILLED SPIRITS PLANTS

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

Authority: 19 U.S.C. 81c, 1311; 26 U.S.C. 5001, 5002, 5004–5006, 5008, 5041, 5061, 5062, 5066, 5081, 5101, 5111–5113, 5142, 5143, 5146, 5171–5173, 5175, 5176, 5178–5181, 5201–5204, 5206, 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, 6806, 7011, 7510, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Para. 2. The table of sections for Part 19 is amended (1) to remove §§ 19.26 and 19.27, as well as the center heading immediately preceding § 19.26, (2) to add new Subpart Ca immediately following Subpart C, and (3) to add new § 19.906 in Subpart Y immediately following § 19.905. As amended, the table of sections reads as follows:

Subpart Ca—Special (Occupational) Taxes

Special Tax Stamps

* * * * *

Subpart Y—Distilled Spirits for Fuel Use

* * * * *

* * * * *

§§ 19.26 and 19.27 [Removed]

Para. 3. Sections 19.26 and 19.27, as well as the undesignated center heading immediately preceding § 19.26, are removed from Part 19.

Para. 4. New Supbart Ca is added immediately following the regulations in Subpart C, to read as follows:

Subpart Ca—Special (Occupational) Taxes

§ 19.49 Liability for special tax.

(a) *Proprietor of distilled spirits plant*—(1) *General.* Every proprietor of a distilled spirits plant shall pay a special (occupational) tax at a rate specified by § 19.50. The tax shall be paid on or before the date of commencing business as a distilled spirits plant proprietor, and thereafter every year on or before July 1. On commencing business, the tax shall be computed from the first day of the month in which liability is incurred, through the following June 30. Thereafter, the tax shall be computed for the entire year (July 1 through June 30).

(2) *Transition rule.* For purposes of paragraph (a)(1) of this section, a proprietor engaged in distilled spirits plant operations on January 1, 1988, shall be treated as having commenced business on that date. The special tax imposed by this transition rulé shall cover the period January 1, 1988, through June 30, 1988, and shall be paid on or before April 1, 1988.

(b) *Liquor Dealer*—(1) *General.* A proprietor of a distilled spirits plant shall be subject to or exempt from a liquor dealer's special (occupational) tax as provided in part 194 of this chapter.

(2) *Exemption for sales by a proprietor of a distilled spirits plant.* A proprietor of a distilled spirits plant is not required to pay special tax as a wholesale or retail dealer in liquor because of sales, at the principal place of business or at the distilled spirits plant, of liquor which at the time of sale is stored at the distilled spirits plant or which had been removed and stored in a taxpaid storeroom operated in connection with the distilled spirits plant. Each proprietor of a distilled spirits plant shall have only one exemption from dealer's special tax for each distilled spirits plant. The distiller may designate, in writing to the regional director (compliance), that the principal place of business will be exempt from dealer's special tax; otherwise, the exemption will apply to the distilled spirits plant.

(c) *Each place of business taxable*—(1) *General.* A proprietor of a distilled spirits plant incurs special tax liability at each place of business in which an occupation subject to special tax is conducted. A place of business means the entire office, plant or area of the business in any one location under the same proprietorship. Passageways, streets, highways, rail crossings, waterways, or partititions dividing the premises are not sufficient separation to require additional special tax, if the divisions of the premises are otherwise contiguous.

(2) *Exception for contiguous areas.* A proprietor of a distilled spirits plant does not incur additional special tax liability for sales of liquor made at a location other than on distilled spirits plant premises described on the notice of registration, Form 5110.41, if the location where such sales are made is contiguous to the distilled spirits plant premises in the manner described in paragraph (c)(1) of this section.

(26 U.S.C. 5081, 5111, 5113, 5142, 5143)

§ 19.50 Rates of special tax.

(a) *General.* Title 26 U.S.C. 5081(a)(1) imposes a special tax of $1,000 per year on every proprietor of a distilled spirits plant.

(b) *Reduced rate for small proprietors.* Title 26 U.S.C. 5081(b) provides for a reduced rate of $500 per year with respect to any distilled spirits plant proprietor whose gross receipts (for the most recent taxable year ending before the first day of the taxable period to which the special tax imposed by § 19.49 relates) are less than $500,000. The "taxable year" to be used for determining gross receipts is the taxpayer's income tax year. All gross receipts of the taxpayer shall be included, not just the gross receipts of the business subject to special tax. Proprietors of new businesses that have not yet begun a taxable year, as well as proprietors of existing businesses that have not yet ended a taxable year, who commence a new activity subject to special tax, qualify for the reduced special (occupational) tax rate, unless the business is a member of a "controlled group"; in that case, the rules of paragraph (c) of this section shall apply.

(c) *Controlled group.* All persons treated as one taxpayer under 26 U.S.C. 5061(e)(3) shall be treated as one taxpayer for the purpose of determining gross receipts under paragraph (b) of this section. "Controlled group" means a controlled group of corporations, as defined in 26 U.S.C. 1563 and implementing regulations in 26 CFR 1.1563–1 through 1.1563–4, except that the words "at least 80 percent" shall be replaced by the words "more than 50 percent" in each place they appear in subsection (a) of 26 U.S.C. 1563, as well as in the implementing regulations. Also, the rules for a "controlled group of corporations" apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50% control over a group consisting of corporations and one, or more, partnerships and/or sole proprietorships, all of the members of the controlled group are one taxpayer for the purpose of this section.

(d) *Short taxable year.* Gross receipts for any taxable year of less than 12 months shall be annualized by multiplying the gross receipts for the short period by 12 and dividing the result by the number of months in the short period, as required by 26 U.S.C. 448(c)(3).

(e) *Returns and allowances.* Gross receipts for any taxable year shall be reduced by returns and allowances made during that year under 26 U.S.C. 448(c)(3).

(26 U.S.C. 448, 5061, 5081)

§ 19.51 Special tax returns.

(a) *General.* Special tax shall be paid by return. The prescribed return is ATF Form 5630.5, Special Tax Registration and Return. Special tax returns, with payment of tax, shall be filed with ATF in accordance with instructions on the form.

(b) *Preparation of ATF Form 5630.5.* All of the information called for on Form 5630.5 shall be provided, including:

(1) The true name of the taxpayer.

(2) The trade name(s) (if any) of the business(es) subject to special tax.

(3) The employer identification number (see § 19.52).

(4) The exact location of the place of business, by name and number of building or street, or if these do not exist, by some description in addition to the post office address. In the case of one return for two or more locations, the address to be shown shall be the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer).

(5) The class(es) of special tax to which the taxpayer is subject.

(6) Ownership and control information: that is, the name, position, and residence address of every owner of the business and of every person having power to control its management and policies with respect to the activity subject to special tax. "Owner of the business" shall include every partner, if the taxpayer is a partnership, and every person owning 10% or more of its stock, if the taxpayer is a corporation. However, the ownership and control information required by this paragraph need not be stated if the same information has been previously provided to ATF in connection with a permit application, and if the information previously provided is still current.

(c) *Multiple locations and/or classes of tax.* A taxpayer subject to special tax for the same period at more than one location or for more than one class of tax shall—

(1) File one special tax return, ATF Form 5630.5, with payment of tax, to cover all such locations and classes of tax; and

(2) Prepare, in duplicate, a list identified with the taxpayer's name, address (as shown on ATF Form 5630.5), employer identification number, and period covered by the return. The list shall show, by States, the name, address, and tax class of each location for which special tax is being paid. The original of the list shall be filed with ATF in accordance with instructions on the return, and the copy shall be retained at the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer) for the period specified in § 19.723(c).

(d) *Signing of ATF Forms 5630.5*—(1) *Ordinary returns.* The return of an individual proprietor shall be signed by the individual. The return of a partnership shall be signed by a general partner. The return of a corporation shall be signed by any officer. In each case, the person signing the return shall designate his or her capacity as "individual owner," "member of firm," or, in the case of a corporation, the title of the officer.

(2) *Fiduciaries.* Receivers, trustees, assignees, executors, administrators, and other legal representatives who continue the business of a bankrupt, insolvent, deceased person, etc., shall indicate the fiduciary capacity in which they act.

(3) *Agent or attorney in fact.* If a return is signed by an agent or attorney in fact, the signature shall be preceded by the name of the principal and followed by the title of the agent or attorney in fact. A return signed by a person as agent will not be accepted unless there is filed, with the ATF office with which the return is required to be filed, a power of attorney authorizing the agent to perform the act.

(4) *Perjury statement.* ATF Forms 5630.5 shall contain or be verified by a written declaration that the return has been executed under the penalties of perjury.

(26 U.S.C. 6061, 6065, 6151, 7011)

§ 19.52 Employer identification number.

(a) *Requirement.* The employer identification number (defined in 26 CFR 301.7701–12) of the taxpayer who has been assigned such a number shall be shown on each special tax return, including amended returns, filed under this subpart. Failure of the taxpayer to include the employer identification number may result in the imposition of the penalty specified in § 70.105 of this chapter.

(b) *Application for employer identification number.* Each taxpayer who files a special tax return, who has not already been assigned an employer identification number, shall file IRS Form SS–4 to apply for one. The taxpayer shall apply for and be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file a special tax return. The employer identification number shall be applied for no later than 7 days after the filing of the taxpayer's first special tax return. IRS Form SS–4 may be obtained from the director of an IRS service center or from any IRS district director.

(c) *Preparation and filing of IRS Form SS–4.* The taxpayer shall prepare and file IRS Form SS–4, together with any supplementary statement, in accordance with the instructions on the form or issued in respect to it.

(26 U.S.C. 6109)

Special Tax Stamps

§ 19.53 Issuance, distribution, and examination of special tax stamps.

(a) *Issuance of special tax stamps.* Upon filing a properly executed return on ATF Form 5630.5, together with the full remittance, the taxpayer will be issued an appropriately designated special tax stamp. If the return covers multiple locations, the taxpayer will be issued one appropriately designated stamp for each location listed on the attachment required by § 19.51(c), but showing, as to name and address, only the name of the taxpayer and the address of the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer).

(b) *Distribution of special tax stamps for multiple locations.* On receipt of the special tax stamps, the taxpayer shall verify that there is one stamp for each location listed on the attachment to ATF Form 5630.5. The taxpayer shall designate one stamp for each location and shall type on each stamp the address of the business conducted at the location for which that stamp is designated. The taxpayer shall then forward each stamp to the place of business designated on the stamp.

(c) *Examination of special tax stamps.* All stamps denoting payment of special tax shall be kept available for inspection by ATF officers, at the location for which designated, during business hours.

(26 U.S.C. 5146, 6806)

§ 19.54 Changes in special tax stamps.

(a) *Change in name.* If there is a change in the corporate or firm name, or in the trade name, as shown on Form 5630.5, the proprietor shall file an amended special tax return as soon as practicable after the change, covering the new corporate or firm name, or trade name. No new special tax is required to be paid. The proprietor shall attach the special tax stamp for endorsement of the change in name.

(b) *Change in proprietorship*—(1) *General.* If there is a change in the proprietorship of a distilled spirits plant, the successor shall pay a new special tax and obtain the required special tax stamps.

(2) *Exemption for certain successors.* Persons having the right of succession provided for in paragraph (c) of this section may carry on the business for the remainder of the period for which the special tax was paid, without paying a new special tax, if within 30 days after the date on which the successor begins to carry on the business, the successor files a special tax return on ATF Form 5630.5 with ATF, which shows the basis of succession. A person who is a successor to a business for which special tax has been paid and who fails to register the succession is liable for special tax computed from the first day of the calendar month in which he or she began to carry on the business.

(c) *Persons having right of succession.* Under the conditions indicated in paragraph (b)(2) of this section, the right of succession will pass to certain persons in the following cases:

(1) *Death.* The widowed spouse or child, or executor, administrator, or other legal representative of the taxpayer;

(2) *Succession of spouse.* A husband or wife succeeding to the business of his or her spouse (living);

(3) *Insolvency.* A receiver or trustee in bankruptcy, or an assignee for benefit of creditors;

(4) *Withdrawal from firm.* The partner or partners remaining after death or withdrawal of a member.

(d) *Change in location.* If there is a change in location of a taxable place of business, the proprietor shall, within 30 days after the change, file with ATF an amended special tax return covering the new location. The proprietor shall attach the special tax stamp or stamps, for endorsement of the change in location. No new special tax is required to be paid. However, if the proprietor does not file the amended return within 30 days, the proprietor is required to pay a new special tax and obtain a new special tax stamp.

(26 U.S.C. 5143, 7011)

§ 19.63 [Amended]

Para. 5. Section 19.63 is amended by adding, right after the word "tax" in the last sentence, the following: ", including special (occupational) tax,".

Para. 6. Section 19.65 is amended by adding the following sentence at the end of the section:

§ 19.65 Experimental distilled spirits plant.

* * * * *

* * * A proprietor of an experimental distilled spirits plant established under this section is subject to special (occupational) tax under Subpart Ca of this part and shall hold a separate special tax stamp to cover the experimental operations.

Para. 7. Section 19.67 is amended by revising paragraph (a)(1) and the introductory text of paragraph (a)(2) to read as follows:

§ 19.67 Spirits produced in industrial processes.

(a) *Applicability.* (1) Persons who produce spirits in industrial processes (including spirits produced as a by-product in connection with chemical or other processes) are distillers and are required to qualify and pay special (occupational) tax under provisions of 26 U.S.C. Chapter 51 and this part.

(2) The Director may, however, waive any provision of 26 U.S.C. Chapter 51, or of this part, with respect to the production of nonpotable chemical mixtures containing spirits, including any provision relating to qualification (except the payment of special (occupational) tax), if such mixtures are produced:

* * * * *

Para. 8. Section 19.71 is amended by adding, at the end of paragraph (a), the following new sentence:

§ 19.71 Experimental or research operations by scientific institutions and colleges of learning.

(a) * * *

A person conducting experimental or research operations authorized under this section is subject to special (occupational) tax under Subpart Ca of this part and shall hold a special tax stamp to cover the experimental or research operations.

* * * * *

Para. 9. New § 19.906 is added in Subpart Y immediately following § 19.905, to read as follows:

§ 19.906 Special (occupational) tax.

A proprietor of an alcohol fuel plant established under this subpart shall be subject to a special (occupational) tax as prescribed in Subpart Ca of this part, and shall hold a separate special tax stamp to cover the alcohol fuel operations.

(26 U.S.C. 5081)

PART 20—DISTRIBUTION AND USE OF DENATURED ALCOHOL AND RUM

Para. 10. The authority citation for Part 20 is revised to read as follows:

Authority: 26 U.S.C. 5001, 5142, 5143, 5146, 5206, 5214, 5271–5276, 5311, 5552, 5555, 5607, 6055, 6061, 6065, 6109, 6151, 6806, 7011, 7805.

Para. 11. The table of sections for Part 20 is amended to add Subpart Ca immediately following Subpart C, and to add new § 20.241a in Subpart N, immediately following § 20.241, to read as follows:

* * * * *

Subpart Ca—Special (Occupational) Taxes

Sec.
20.38 Liability for special tax.
20.38a Special tax returns.
20.39 Employer identification number.

Special Tax Stamps

20.40 Issuance, distribution, and examination of special tax stamps.
20.40a Changes in special tax stamps.

* * * * *

Subpart N—Use of Specially Denatured Spirits by the United States or Government Agency

* * * * *

20.241a Special (occupational) tax.

* * * * *

Para. 12. New Subpart Ca is added, immediately following the regulations in Subpart C, to read as follows:

Subpart Ca—Special (Occupational) Taxes

§ 20.38 Liability for special tax.

(a) *Industrial alcohol permittee.* Every person required to hold a permit under 26 U.S.C. 5271 to procure, use, sell, and/or recover denatured distilled spirits for industrial purposes shall pay a special (occupational) tax at the rate of $250 per year. A separate tax shall be paid for each industrial alcohol permit which the permittee holds, and permits issued under this part shall not be valid unless special tax is paid. The tax shall be paid on or before the date of commencing business as an industrial alcohol permittee, and thereafter every year on or before July 1. On commencing business, the tax shall be computed from the first day of the month in which liability is incurred, through the following June 30. Thereafter, the tax shall be computed for the entire year (July 1 through June 30).

(b) *Transition rule.* For purposes of paragraph (a) of this section, a permittee engaged in denatured distilled spirits operations on January 1, 1988, shall be treated as having commenced business on that date. The special tax imposed by this transition rule shall cover the period January 1, 1988, through June 30, 1988, and shall be paid on or before April 1, 1988.

(c) *Each place of business taxable.* Special (occupational) tax liability is incurred at each place of business for which a permit under Subpart D of this part to procure, use, sell, and/or recover denatured distilled spirits has been issued. A place of business means the entire office, plant or area of the business in any one location under the same proprietorship. Passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises are not sufficient separation to require additional special tax, if the divisions of the premises are otherwise contiguous.

(26 U.S.C. 5143, 5276)

§ 20.38a Special tax returns.

(a) *General.* Special tax shall be paid by return. The prescribed return is ATF Form 5630.5, Special Tax Registration and Return. Special tax returns, with payment of tax, shall be filed with ATF in accordance with instructions on the form.

(b) *Preparation of ATF Form 5630.5.* All of the information called for on Form 5630.5 shall be provided, including:

(1) The true name of the taxpayer.

(2) The trade name(s) (if any) of the business(es) subject to special tax.

(3) The employer identification number (see § 20.39).

(4) The exact location of the place of business, by name and number of building or street, or if these do not exist, by some description in addition to the post office address. In the case of one return for two or more locations, the address to be shown shall be the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer).

(5) The class(es) of special tax to which the taxpayer is subject.

(6) Ownership and control information: That is, the name, position, and residence address of every owner of the business and of every person having power to control its management and policies with respect to the activity subject to special tax. "Owner of the business" shall include every partner, if the taxpayer is a partnership, and every person owning 10 percent of more of its stock, if the taxpayer is a corporation. However, the ownership and control information required by this paragraph need not be stated if the same information has been previously provided to ATF in connection with a permit application, and if the information previously provided is still current.

(c) *Multiple locations and/or classes of tax.* A taxpayer subject to special tax for the same period at more than one location or for more than one class of tax shall—

(1) File one special tax return, ATF Form 5630.5, with payment of tax, to cover all such locations and classes of tax; and

(2) Prepare, in duplicate, a list identified with the taxpayer's name, address (as shown on ATF Form 5630.5), employer identification number, and period covered by the return. The list shall show, by States, the name, address, and tax class of each location for which special tax is being paid. The original of the list shall be filed with ATF is accordance with instructions on the return, and the copy shall be retained at the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer) for the period specified in § 20.267.

(d) *Signing of ATF Forms 5630.5—(1) Ordinary returns.* The return of an individual proprietor shall be signed by the individual. The return of a partnership shall be signed by a general partner. The return of a corporation shall be signed by any officer. In each case, the person signing the return shall designate his or her capacity as "individual owner," "member of firm," or, in the case of a corporation, the title of the officer.

(2) *Fiduciaries.* Receivers, trustees, assignees, executors administrators, and other legal representatives who continue the business of a bankrupt, insolvent, deceased person, etc., shall indicate the fiduciary capacity in which they act.

(3) *Agent or attorney in fact.* If a return is signed by an agent or attorney in fact, the signature shall be preceded by the name of the principal and followed by the title of the agent or attorney in fact. A return signed by a person as agent will not be accepted unless there is filed, with the ATF office with which the return is required to be filed, a power of attorney authorizing the agent to perform the act.

(4) *Perjury statement.* ATF Forms 5630.5 shall contain or be verified by a written declaration that the return has been executed under the penalties of perjury.

(26 U.S.C. 5142, 6061, 6065, 6151, 7011)

§ 20.39 Employer identification number.

(a) *Requirement.* The employer identification number (defined in 26 CFR 301.7701–12) of the taxpayer who has been assigned such a number shall be shown on each special tax return, including amended returns, filed under this subpart. Failure of the taxpayer to include the employer identification number may result in the imposition of the penalty specified in § 70.105 of this chapter.

(b) *Application for employer indentification number.* Each taxpayer who files a special tax return, who has not already been assigned an employer identification number, shall file IRS Form SS–4 to apply for one. The taxpayer shall apply for and be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file a special tax return. The employer identification number shall be applied for no later than 7 days after the filing of the taxpayer's first special tax return. IRS Form SS–4 may be obtained from the director of an IRS service center or from any IRS district director.

(c) *Preparation and filing of IRS Form SS–4.* The taxpayer shall prepare and file IRS Form SS–4, together with any supplementary statement, in accordance with the instructions on the form or issued in respect to it.

(26 U.S.C. 6109)

Special Tax Stamps

§ 20.40 Issuance, distribution, and examination of special tax stamps.

(a) *Issuance of special tax stamps.* Upon filing a properly executed return on ATF Form 5630.5 together with the full remittance, the taxpayer will be issued an appropriately designated special tax stamp. If the return covers multiple locations, the taxpayer will be issued one appropriately designated stamp for each location listed on the attachment required by § 20.38a(c)(2), but showing, as to name and address, only the name of the taxpayer and the address of the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer).

(b) *Distribution of special tax stamps for multiple locations.* On receipt of the special tax stamps, the taxpayer shall verify that there is one stamp for each location listed on the attachment to ATF Form 5630.5. The taxpayer shall designate one stamp for each location and shall type on each stamp the address of the business conducted at the location for which that stamp is designated. The taxpayer shall then forward each stamp to the place of business designated on the stamp.

(c) *Examination of special tax stamps.* All stamps denoting payment of special tax shall be kept available for inspection by ATF officers, at the location for which designated, during business hours.

(26 U.S.C. 5143, 5146, 6806)

§ 20.40a Changes in special tax stamps.

(a) *Change in name.* If there is a change in the corporate or firm name, or in the trade name, as shown on ATF Form 5630.5, the permittee shall file an amended special tax return, as soon as practicable after the change, covering the new corporate or firm name, or trade names. No new special tax is required to be paid. The permittee shall attach the special tax stamp for endorsement of the change in name.

(b) *Change in proprietorship*—(1) *General.* If there is a change in the proprietorship of an industrial alcohol operation, the successor shall pay a new special tax and obtain the required special tax stamps.

(2) *Exemption for certain successors.* Persons having the right of succession provided for in paragraph (c) of this section may carry on the business for the remainder of the period for which the special tax was paid, without paying a new special tax, if within 30 days after the date on which the successor begins to carry on the business, the successor files a special tax return on ATF Form 5630.5 with ATF, which shows the basis of succession. A person who is a successor to a business for which special tax has been paid and who fails to register the succession is liable for special tax computed from the first day of the calendar month in which he or she began to carry on the business.

(c) *Persons having right of succession.* Under the conditions indicated in paragraph (b)(2) of this section, the right of succession will pass to certain persons in the following cases:

(1) *Death.* The widowed spouse or child, or executor, administrator, or other legal representative of the taxpayer;

(2) *Succession of spouse.* A husband or wife succeeding to the business of his or her spouse (living);

(3) *Insolvency.* A receiver or trustee in bankruptcy, or an assignee for benefit of creditors;

(4) *Withdrawal from firm.* The partner or partners remaining after death or withdrawal of a member.

(d) *Change in location.* If there is a change in location of a taxable place of business, the proprietor shall, within 30 days after the change, file with ATF an amended special tax return covering the new location. The proprietor shall attach the special tax stamp or stamps, for endorsement of the change in location. No new special tax is required to be paid. However, if the proprietor does not file the amended return within 30 days, the proprietor is required to pay a new special tax and obtain a new special tax stamp.

(26 U.S.C. 5143, 7011)

Para. 13. New § 20.241a is added in Subpart N, immediately following the regulations in § 20.241, to read as follows:

§ 20.241a Special (occupational) taxes.

Special (occupational) tax at the rate of $250 per year is imposed upon agencies and instrumentalities of the United States required by 26 U.S.C. 5271 to obtain permits to procure and use specially denatured spirits. Permits issued under this part shall not be valid unless the permittee pays the special (occupational) tax. Special tax liability is incurred for each permit held and each location receiving denatured distilled spirits by virtue of such permit. The tax shall be paid on or before the date of commencing business as an industrial alcohol permittee, and thereafter every year on or before July 1. On commending operations, the tax shall be computed from the first day of the month in which liability is incurred, through the following June 30. Thereafter, the tax shall be computed for the entire year (July 1 through June 30).

(26 U.S.C. 5143, 5214, 5271, 5276)

PART 22—DISTRIBUTION AND USE OF TAX-FREE ALCOHOL

Para. 14. The authority citation for Part 22 is revised to read as follows:

Authority: 26 U.S.C. 5001, 5121, 5142, 5143, 5146, 5206, 5214, 5271–5276, 5311, 5552, 5555, 6056, 6061, 6065, 6109, 6151, 6806, 7011, 7805; 31 U.S.C. 9304, 9306.

Para. 15. The table of sections for Part 22 is amended to add new Subpart Ca immediately following Subpart C, and to add § 22.171a in Subpart N, immediately following § 22.171, to read as follows:

* * * * *

Subpart Ca—Special (Occupational) Taxes

Sec.

22.37 Liability for special tax.
22.38 Special tax returns.
22.38a Employer identification number.

Special Tax Stamps

22.39 Issuance, distribution, and examination of special tax stamps.
22.40 Changes in special tax stamps.

* * * * *

Subpart N—Use of Tax Free Spirits by the United States or Government Agency

* * * * *

22.171a Special (occupational) tax.

* * * * *

Para. 16. New Subpart Ca is added immediately following the regulations in Subpart C to read as follows:

Subpart Ca—Special (Occupational) Taxes

§ 22.37 Liability for special tax.

(a) *Tax-free alcohol permittee.* Every person who is required to hold a permit under 26 U.S.C. 5271 to procure, use, and/or recover alcohol free of tax for nonbeverage purposes shall pay a special (occupational) tax at the rate of $250 per year. A separate tax shall be paid for each tax-free alcohol permit which the permittee holds, and permits issued under this part shall not be valid unless special tax is paid. The tax shall be paid on or before the date of commencing the business of a tax-free alcohol permittee, and thereafter every year on or before July 1. On commencing business, the tax shall be computed from the first day of the month in which liability is incurred, through the following June 30. Thereafter, the tax shall be computed for the entire year (July 1 through June 30).

(b) *Transition rule.* For purposes of paragraph (a) of this section, a permittee engaged in nonbeverage tax-free distilled spirits operations on January 1, 1988, shall be treated as having commenced business on that date. The special tax imposed by this transition rule shall cover the period January 1, 1988, through June 30, 1988, and shall be paid on or before April 1, 1988.

(c) *Each place of business taxable.* Special (occupational) tax liability is incurred at each place of business for which a permit under Subpart D of this part to procure, use, and/or recover distilled spirits free of tax has been issued. A place of business means the entire office, plant or area of the business in any one location under the same proprietorship. Passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises are not sufficient separation to require additional special tax, if the divisions of the premises are otherwise contiguous.

(26 U.S.C. 5143, 5276)

§ 22.38 Special tax returns.

(a) *General.* Special tax shall be paid by return. The prescribed return is ATF Form 5630.5, Special Tax Registration and Return. Special tax returns, with payment of tax, shall be filed with ATF in accordance with instructions on the form.

(b) *Preparation of ATF Form 5630.5.* All of the information called for on Form 5630.5 shall be provided, including:

(1) The true name of the taxpayer.

(2) The trade name(s) (if any) of the business(es) subject to special tax.

(3) The employer identification number (see § 22.38a).

(4) The exact location of the place of business, by name and number of building or street, of if these do not exist, by some description in addition to the post office address. In the case of one return for two or more locations, the address to be shown shall be the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer).

(5) The class(es) of special tax to which the taxpayer is subject.

(6) Ownership and control information: That is, the name, position, and residence address of every owner of the business and of every person having power to control its management and policies with respect to the activity subject to special tax. "Owner of the business" shall include every partner, if the taxpayer is a partnership, and every person owning 10% or more of its stock, if the taxpayer is a corporation. However, the ownership and control information required by this paragraph need not be stated if the same information has been previously provided to ATF in connection with a permit application, and if the information previously provided is still current.

(c) *Multiple locations and/or classes of tax.* A taxpayer subject to special tax for the same period at more than one location or for more than one class of tax shall—

(1) File one special tax return, ATF Form 5630.5, with payment of tax, to cover all such locations and classes of tax; and

(2) Prepare, in duplicate, a list identified with the taxpayer's name, address (as shown on ATF Form 5630.5), employer identification number, and period covered by the return. The list shall show, by States, the name, address, and tax class of each location for which special tax is being paid. The original of the list shall be filed with ATF in accordance with instructions on the return, and the copy shall be retained at the taxpayer's principal place of business (or principal office, in the case of corporate taxpayer) for the period specified on § 22.164.

(d) *Signing of ATF Forms 5630.5*—(1) *Ordinary returns.* The return of an individual proprietor shall be signed by the individual. The return of a partnership shall be signed by a general partner. The return of a corporation shall be signed by any officer. In each case, the person signing the return shall designate his or her capacity as "individual owner," "member of firm," or, in the case of a corporation, the title of the officer.

(2) *Fiduciaries.* Receivers, trustees, assignees, executors, administrators, and other legal representatives who continue the business of a bankrupt, insolvent, deceased person, etc., shall indicate the fiduciary capacity in which they act.

(3) *Agent or attorney in fact.* If a return is signed by an agent or attorney in fact, the signature shall be preceded by the name of the principal and followed by the title of the agent or attorney in fact. A return signed by a person as agent will not be accepted unless there is filed, with the ATF office with which the return is required to be filed, a power of attorney authorizing the agent to perform the act.

(4) *Perjury statement.* ATF Forms 5630.5 shall contain or be verified by a written declaration that the return has been executed under the penalties of perjury.

(26 U.S.C. 5142, 6061, 6065, 6151, 7100)

§ 22.38a Employer identification number.

(a) *Requirement.* The employer identification number (defined in 26 CFR 301.7701-12) of the taxpayer who has been assigned such a number shall be shown on each special tax return, including amended returns, filed under this subpart. Failure of the taxpayer to include the employer identification number may result in the imposition of the penalty specified in § 70.105 of this chapter.

(b) *Application for employer identification number.* Each taxpayer who files a special tax return, who has not already been assigned an employer identification number, shall file IRS Form SS-4 to apply for one. The taxpayer shall apply for and be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file a special tax return. The employer identification number shall be applied for no later than 7 days after the filing of the taxpayer's first special tax return. IRS Form SS-4 may be obtained from the director of an IRS service center or from any IRS district director.

(c) *Preparation and filing of IRS Form SS-4.* The taxpayer shall prepare and file IRS Form SS-4, together with any supplementary statement, in accordance with the instructions on the form or issued in respect to it.

(26 U.S.C. 6109)

Special Tax Stamps

§ 22.39 Issuance, distribution, and examination of special tax stamps.

(a) *Issuance of special tax stamps.* Upon filing a properly executed return on ATF Form 5630.5 together with the full remittance, the taxpayer will be issued an appropriately designated special tax stamp. If the return covers multiple locations, the taxpayer will be issued one appropriately designated stamp for each location listed on the attachment required by § 22.38(c), but showing, as to name and address, only the name of the taxpayer and the address of the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer).

(b) *Distribution of special tax stamps for multiple locations.* On receipt of the special tax stamps, the taxpayer shall verify that there is one stamp for each location listed on the attachment to ATF Form 5630.5. The taxpayer shall designate one stamp for each location and type on each stamp the address of the business conducted at the location for which that stamp is designated. The taxpayer shall then forward each stamp to the place of business designated on the stamp.

(c) *Examination of special tax stamps.* All stamps denoting payment of special tax shall be kept available for inspection by ATF officers, at the location for which designated, during business hours.

(26 U.S.C. 5143, 5146, 6806)

§ 22.40 Changes in special tax stamps.

(a) *Change in name.* If there is a change in the corporate or firm name, or in the trade name, as shown on ATF Form 5630.5, the permittee shall file an amended special tax return, as soon as practicable after the change, covering the new corporate or firm name, or trade names. No new special tax is required to be paid. The permittee shall attach the special tax stamp for endorsement of the change in name.

(b) *Change in proprietorship*—(1) *General.* If there is a change in the proprietorship of a tax-free alcohol operation, the successor shall pay a new special tax and obtain the required special tax stamps.

(2) *Exemption for certain successors.* Persons having the right of succession provided for in paragraph (c) of this section may carry on the business for the remainder of the period for which the special tax was paid, without paying a new special tax, if within 30 days after the date on which the successor begins to carry on the business, the successor files a special tax return on ATF Form 5630.5 with ATF, which shows the basis of succession. A person who is a successor to a business for which special tax has been paid and who fails to register the succession is liable for special tax computed from the first day of the calendar month in which he or she began to carry on the business.

(c) *Persons having right of succession.* Under the conditions indicated in paragraph (b)(2) of this section, the right of succession will pass to certain persons in the following cases:

(1) *Death.* The widowed spouse or child, or executor, administrator, or other legal representative of the taxpayer;

(2) *Succession of spouse.* A husband or wife succeeding to the business of his or her spouse (living);

(3) *Insolvency.* A receiver or trustee in bankruptcy, or an assignee for benefit of creditors;

(4) *Withdrawal from firm.* The partner or partners remaining after death or withdrawal of a member.

(d) *Change in location.* If there is a change in location of a taxable place of business, the permittee shall, within 30 days after the change, file with ATF an amended special tax return covering the new location. The permittee shall attach the special tax stamp or stamps, for endorsement of the change in location. No new special tax is required to be paid. However, if the permittee does not file the amended return within 30 days, he or she is required to pay a new special tax and obtain a new special tax stamp.

(26 U.S.C. 5143, 7011)

Para. 17. New § 22.171a is added in Subpart N, immediately following the regulations in § 22.171, to read as follows:

§ 22.171a Special (occupational) taxes.

Special (occupational) tax at the rate of $250 per year is imposed upon agencies and instrumentalities of the United States required by 26 U.S.C. 5271 to obtain permits to procure and use tax-free spirits under this part. Permits issued under this part shall not be valid unless the permittee pays the special (occupational) tax. Special tax liability is incurred for each such permit held and each location receiving tax-free spirits by virtue of such a permit. The tax shall be paid on or before the date of commencing operations as an industrial alcohol permittee, and thereafter every year on or before July 1. On commencing operations, the tax shall be computed from the first day of the month in which liability is incurred, through the following June 30. Thereafter, the tax shall be computed for the entire year (July 1 through June 30).

(26 U.S.C. 5143, 5214, 5271, 5272, 5273, 5274, 5275, 5276)

PART 25—BEER

Para. 18. The authority citation for Part 25 is revised to read as follows:

Authority: 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.

Para. 19. The table of sections in 27 CFR Part 25, Subpart I, is amended to add §§ 25.111a, 25.111b, and to add § 25.120 under the center heading "Execution of Special Tax Returns" and to revise the titles of §§ 25.118, 25.119, 25.123, and 25.125, and the center heading immediately preceding § 25.125, as follows:

* * * * *

Subpart I—Special Taxes

Sec.

* * * * *

Special Tax Stamps

* * * * *

Para. 20. Sections 25.111 and 25.112 are revised, and §§ 25.111a and 25.111b are added in Subpart I, to read as follows:

§ 25.111 Brewer's special tax.

(a) *General.* Every brewer shall pay a special (occupational) tax at the rate specified by § 25.111a or § 25.111b, whichever is applicable. The tax shall be paid on or before the date of commencing business as a brewer, and thereafter every year on or before July 1. On commencing business, the tax shall be computed from the first day of the month in which liability is incurred, through the following June 30. Thereafter, the tax shall be computed for the entire year (July 1 through June 30).

(b) *Transition rule.* A brewer who was engaged in business on January 1, 1988, and paid a special (occupational) tax for a taxable period which began before January 1, 1988, and included that date, shall pay an increased special tax for the period January 1, 1988, through June 30, 1988. The increased special tax shall not exceed one-half the excess (if any) of (1) the rate of special tax in effect on January 1, 1988, over (2) the rate of such tax in effect on December 31, 1987. The increased special tax shall be paid on or before April 1, 1988.

(26 U.S.C. 5091, 5142)

§ 25.111a Special tax rates.

(a) *Prior rates.* The special (occupational) tax imposed on brewers prior to January 1, 1988, was $110 a year, except that the special tax for any brewer of less than 500 barrels a year was $55 a year.

(b) *Rate effective January 1, 1988.* The special tax rate imposed on brewers (other than small brewers as defined in § 25.111b) is $1000 a year.

(26 U.S.C. 5091)

§ 25.111b Reduced rate of tax for small brewers.

(a) *General.* Effective January 1, 1988, 26 U.S.C. 5091(b) provides for a reduced rate of tax with respect to any brewer whose gross receipts (for the most recent taxable year ending before the first day of the taxable period to which the tax imposed by § 25.111 relates) are less than $500,000. The rate of tax for such a brewer is $500 a year. The "taxable year" to be used for determining gross receipts is the taxpayer's income tax year. All gross receipts of the taxpayer shall be included, not just the gross receipts of the business subject to special tax. Proprietors of new businesses that have not yet begun a taxable year, as well as proprietors of existing businesses that have not yet ended a taxable year, who commence a new activity subject to special tax, qualify for the reduced special (occupational) tax rate, unless the business is a member of a "controlled group"; in that case, the rules of paragraph (b) of this section shall apply.

(b) *Controlled group.* In determining gross receipts, all persons treated as one taxpayer under 26 U.S.C. 5061(e)(3) shall be treated as one taxpayer for purposes of paragraph (a) of this section. "Controlled group" means a controlled group of corporations, as defined in 26 U.S.C. 1563, and implementing regulations in 26 CFR 1.1563–1 through 1.1563–4, except that the words "at least 80 percent" shall be replaced by the words "more than 50 percent" in each place they appear in subsection (a) of 26 U.S.C. 1563, as well as in the implementing regulations. Also, the rules for a "controlled group of corporations" apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50% control over a group consisting of corporations and one, or more, partnerships and/or sole proprietorships, all of the members of the controlled group are one taxpayer for the purpose of this section.

(c) *Short taxable year.* Gross receipts for any taxable year of less than 12 months shall be annualized by multiplying the gross receipts for the short period by 12 and dividing the result by the number of months in the short period as required by 26 U.S.C. 448(c)(3).

(d) *Returns and allowances.* Gross receipts for any taxable year shall be reduced by returns and allowances made during that year under 26 U.S.C. 448(c)(3).

(26 U.S.C. 448, 5061, 5091)

§ 25.112 Wholesaler's special tax.

A brewer shall be subject to or exempt from a wholesaler's special (occupational) tax as provided in Part 194 of this chapter.

(26 U.S.C. 5111, 5142)

Para. 21. Section 25.120 is added in Subpart I, and §§ 25.117–25.119, 25.121–25.123, 25.125, and the center heading immediately preceding § 25.125 are revised to read as follows:

Execution of Special Tax Returns

§ 25.117 Special tax returns.

Special tax shall be paid by return. The prescribed return is ATF Form 5630.5, Special Tax Registration and Return. Special tax returns, with payment of tax, shall be filed with ATF in accordance with instructions on the form.

§ 25.118 Preparation of ATF Form 5630.5.

All of the information called for on Form 5630.5 shall be provided, including:

(a) The true name of the taxpayer.

(b) The trade name(s) (if any) of the business(es) subject to special tax.

(c) The employer identification number (see § 25.121).

(d) The exact location of the place of business, by name and number of building or street, or if these do not exist, by some description in addition to the post office address. In the case of one return for two or more locations, the address to be shown shall be the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer).

(e) The class(es) of special tax to which the taxpayer is subject.

(f) Ownership and control information: that is, the name, position, and residence address of every owner of the business and of every person having power to control its management and policies with respect to the activity subject to special tax. "Owner of the business" shall include every partner, if the taxpayer is a partnership, and every person owning 10% or more of its stock, if the taxpayer is a corporation. However, the ownership and control information required by this paragraph need not be stated if the same information has been previously provided to ATF in connection with the Brewer's Notice, and if the information previously provided is still current.

§ 25.119 Multiple locations and/or classes of tax.

A taxpayer subject to special tax for the same period at more than one location or for more than one class of tax shall—

(a) File one special tax return, ATF Form 5630.5, with payment of tax, to cover all such locations and classes of tax; and

(b) Prepare, in duplicate, a list identified with the taxpayer's name, address (as shown on ATF Form 5630.5), employer identification number, and period covered by the return. The list shall show, by States, the name, address, and tax class of each location for which special tax is being paid. The original of the list shall be filed with ATF in accordance with instructions on the return, and the copy shall be retained at the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer) for the period specified in § 25.300(c).

§ 25.120 Signing of ATF Forms 5630.5.

(a) *Ordinary returns.* The return of an individual proprietor shall be signed by the individual. The return of a partnership shall be signed by a general partner. The return of a corporation shall be signed by any officer. In each case, the person signing the return shall designate his or her capacity as "individual owner," "member of firm," or, in the case of a corporation, the title of the officer.

(b) *Fiduciaries.* Receivers, trustees, assignees, executors, administrators, and other legal representatives who continue the business of a bankrupt, insolvent, deceased person, etc., shall indicate the fiduciary capacity in which they act.

(c) *Agent or attorney in fact.* If a return is signed by an agent or attorney in fact, the signature shall be preceded by the name of the principal and followed by the title of the agent or attorney in fact. A return signed by a person as agent will not be accepted unless there is filed, with the ATF office with which the return is required to be filed, a power of attorney authorizing the agent to perform the act.

(d) *Perjury statement.* ATF Forms 5630.5 shall contain or be verified by a written declaration that the return has been executed under the penalties of perjury.

(26 U.S.C. 5142, 6061, 6065, 6151, 7011)

Employer Identification Number

§ 25.121 Employer identification number.

The employer identification number (defined in 26 CFR 301.7701–12) of the taxpayer who has been assigned such a number shall be shown on each special tax return, including amended returns, filed under this subpart. Failure of the taxpayer to include the employer identification number may result in the imposition of the penalty specified in § 70.105 of this chapter.

(26 U.S.C. 6109, 6676)

§ 25.122 Application for employer identification number.

Each taxpayer who files a special tax return, who has not already been assigned an employer identification number, shall file IRS Form SS–4 to apply for one. The taxpayer shall apply for and be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file a special tax return. The employer identification number shall be applied for no later than 7 days after the filing of the taxpayer's first special tax return. IRS Form SS–4 may be obtained from the director of an IRS service center or from any IRS district director.

(26 U.S.C. 6109)

§ 25.123 Preparation and filing of IRS Form SS–4.

The taxpayer shall prepare and file IRS Form SS–4, together with any supplementary statement, in accordance with the instructions on the form or issued in respect to it.

(26 U.S.C. 6109)

Special Tax Stamps

§ 25.125 Issuance of Special Tax Stamps.

Upon filing a properly executed return on ATF Form 5630.5, together with the full remittance, the taxpayer will be issued an appropriately designated special tax stamp. If the return covers multiple locations, the taxpayer will be issued one appropriately designated stamp for each location listed on the attachment required by § 25.119, but showing, as to name and address, only the name of the taxpayer and the address of the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer).

(26 U.S.C. 6806)

Para. 22. 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, as shown on Form 5630.5, the brewer shall file an amended special tax return as soon as practicable after the change covering the new corporate or firm name, or trade names. No new special tax is required to be paid. The brewer shall attach the special tax stamp for endorsement of the change in name.

(26 U.S.C. 7011)

Para. 23. Section 25.134 is revised to read as follows:

§ 25.134 Change in location.

If there is a change in location of a taxable place of business, the brewer shall, within 30 days after the change, file with ATF an amended special tax return covering the new location. The brewer shall attach the special tax stamp or stamps, for endorsement of the change in location. No new special tax is required to be paid. However, if the brewer does not file the amended return within 30 days, the brewer is required to pay a new special tax and obtain a new special tax stamp.

(26 U.S.C. 5143, 7011)

PART 70—PROCEDURE AND ADMINISTRATION

Para. 24. The authority citation for Part 70 continues 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), 5802, 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. 25. Section 70.109 is amended by revising paragraphs (a)(1)–(4), adding new paragraphs (a)(5)–(7) and concluding text of paragraph (a), and revising paragraph (b), to read as follows:

§ 70.109 Registration of persons paying a special tax.

(a) * * *

(1) Section 5081 (relating to special tax on proprietors of distilled spirits plants, bonded wine cellars, bonded wine warehouses, and taxpaid wine bottling houses);

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

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

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

(5) Section 5276 (relating to special tax on persons holding permits to procure or use tax-free spirits, to procure, deal in, or use specially denatured spirits, or to recover specially or completely denatured spirits);

(6) Section 5731 (relating to special tax on manufacturers of tobacco products, manufacturers of cigarette papers and tubes, and export warehouse proprietors); or

(7) 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 paragraph (a) of this section is imposed, shall be accomplished by timely executing and filing, in accordance with the instructions relating thereto, ATF Form 5630.5, Special Tax Registration and Return.

(26 U.S.C. 5802, 7011)

Para. 26. Section 70.111(a) is amended by revising the second sentence to read as follows:

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

(a) * * * Occupational taxes are imposed upon brewers, dealers in liquors, and proprietors of distilled spirits plants, bonded wine cellars, bonded wine warehouses, and taxpaid wine bottling houses; on industrial users of tax-free distilled spirits; on dealers, users, and recoverers of specially denatured spirits; and as a prerequisite for drawback under section 5134 of the Internal Revenue Code, upon manufacturers of nonbeverage products.

* * * * *

Para. 27. Section 70.112(a) is amended by revising the sixth sentence to read as follows:

§ 70.112 Excise taxes.

(a) * * * Special tax stamps are issued to denote the payment of special (occupational) taxes by liquor dealers, brewers, manufacturers of nonbeverage products, and industrial users of tax-free distilled spirits; by dealers, users, and recoverers of specially denatured spirits; and by proprietors of distilled spirits plants, bonded wine cellars, bonded wine warehouses, and taxpaid wine bottling houses. * * *

* * * * *

Para. 28. Section 70.131(a) is amended by adding the following after the end of the first sentence:

§ 70.131 Imposition of taxes; regulations.

(a) * * * Occupational taxes are imposed by manufacturers of tobacco products, manufacturers of cigarette papers and tubes, and export warehouse proprietors. * * *

* * * * *

Para. 29. Section 70.133 is amended by redesignating paragraph (c) as paragraph (d) and by adding the following new paragraph (c) to read as follows:

§ 70.133 Collection of taxes.

* * * * *

(c) *Special tax.* Special (occupational) taxes are paid by manufacturers of tobacco products, manufacturers of cigarette papers and tubes, and export warehouse proprietors on the basis of a return. Special tax stamps are issued to denote the payment of special (occupational) taxes.

* * * * *

Para. 30. Section 70.151(a)(1)(ii) is revised to read as follows:

§ 70.151 Offers in compromise.

(a) * * *

(1) * * *

* * * * *

(ii) The failure to file returns of, or to pay, occupational taxes with respect to distilled spirits, wines, beer, tobacco products, cigarette papers and tubes, or firearms.

* * * * *

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

Para. 31. The authority citation for Part 179 is revised to read as follows:

Authority: 18 U.S.C. 926; 22 U.S.C. 2778; 26 U.S.C. Chapter 53, 6091, 6511, 6676, 6805, 7805.

Para. 32. The table of sections for Part 179 is amended to add new § 179.32a in Subpart D immediately following § 179.32, and to revise the title of § 179.34, as follows:

* * * * *

Subpart D—Special (Occupational) Taxes

* * * * *

Sec.

179.32a Reduced rate of tax for small importers and manufacturers.

* * * * *

179.34 Special tax registration and return.

* * * * *

Para. 33. Section 179.31 is revised to read as follows:

§ 179.31 Liability for tax.

(a) *General.* Every person who engages in the business of importing, manufacturing, or dealing in (including pawnbrokers) firearms in the United States shall pay a special (occupational) tax at a rate specified by § 179.32. The tax shall be paid on or before the date of commencing the taxable business, and thereafter every year on or before July 1. Special (occupational) tax shall not be prorated. The tax shall be computed for the entire tax year (July 1 through June 30), regardless of the portion of the year during which the taxpayer engages in business. Persons commencing business at any time after July 1 in any year are liable for the special (occupational) tax for the entire tax year.

(b) *Each place of business taxable.* An importer, manufacturer, or dealer in firearms incurs special tax liability at each place of business where an occupation subject to special tax is conducted. A place of business means the entire office, plant or area of the business in any one location under the same proprietorship. Passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises are not sufficient separation to require additional special tax, if the divisions of the premises are otherwise contiguous. See also §§ 179.38–179.39.

(26 U.S.C. 5143, 5801, 5846)

Para. 34. Section 179.32 is revised to read as follows:

§ 179.32 Special (occupational) tax rates.

(a) Prior to January 1, 1988, the special (occupational) tax rates were as follows:

	Per year or fraction thereof
Class 1—Importer of firearms	$500
Class 2—Manufacturer of firearms	500
Class 3—Dealer in firearms	200
Class 4—Importer only of weapons classified as "any other weapon"	25
Class 5—Manufacturer only of weapons classified as "any other weapon"	25
Class 6—Dealer only in weapons classified as "any other weapon"	10

(b) Except as provided in § 179.32a, the special (occupational) tax rates effective January 1, 1988, are as follows:

	Per year or fraction thereof
Class 1—Importer of firearms (including an importer only of weapons classified as "any other weapon")	$1,000
Class 2—Manufacturer of firearms (including a manufacturer only of weapons classified as "any other weapon")	1,000
Class 3—Dealer in firearms (including a dealer only of weapons classified as "any other weapon")	500

(c) A taxpayer who was engaged in a business on January 1, 1988, for which a special (occupational) tax was paid for a taxable period which began before January 1, 1988, and included that date, shall pay an increased special tax for the period January 1, 1988, through June 30, 1988. The increased tax shall not exceed one-half the excess (if any) of (1) the rate of special tax in effect on January 1, 1988, over (2) the rate of such tax in effect on December 31, 1987. The increased special tax shall be paid on or before April 1, 1988.

Para. 35. New § 179.32a is added immediately following § 179.32, to read as follows:

§ 179.32a Reduced rate of tax for small importers and manufacturers.

(a) *General.* Effective January 1, 1988, 26 U.S.C. 5801(b) provides for a reduced rate of special tax with respect to any importer or manufacturer whose gross receipts (for the most recent taxable year ending before the first day of the taxable period to which the special tax imposed by § 179.32 relates) are less than $500,000. The rate of tax for such an importer or manufacturer is $500 per year or fraction thereof. The "taxable year" to be used for determining gross receipts is the taxpayer's income tax year. All gross receipts of the taxpayer shall be included, not just the gross receipts of the business subject to special tax. Proprietors of new businesses that have not yet begun a taxable year, as well as proprietors of existing businesses that have not yet ended a taxable year, who commence a new activity subject to special tax, quality for the reduced special (occupational) tax rate, unless the business is a member of a "controlled group"; in that case, the rules of paragraph (b) of this section shall apply.

(b) *Controlled group.* All persons treated as one taxpayer under 26 U.S.C. 5061(e)(3) shall be treated as one taxpayer for the purpose of determining gross receipts under paragraph (a) of this section. "Controlled group" means a controlled group of corporations, as defined in 26 U.S.C. 1563 and implementing regulations in 26 CFR 1.1563–1 through 1.1563–4, except that the words "at least 80 percent" shall be replaced by the words "more than 50 percent" in each place they appear in subsection (a) of 26 U.S.C. 1563, as well as in the implementing regulations. Also, the rules for a "controlled group of corporations" apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50% control over a group consisting of corporations and one, or more, partnerships and/or sole proprietorships, all of the members of the controlled group are one taxpayer for the purpose of this section.

(c) *Short taxable year.* Gross receipts for any taxable year of less than 12 months shall be annualized by multiplying the gross receipts for the short period by 12 and dividing the result by the number of months in the short period, as required by 26 U.S.C. 448(c)(3).

(d) *Returns and allowances.* Gross receipts for any taxable year shall be reduced by returns and allowances made during that year under 26 U.S.C. 448(c)(3).

(26 U.S.C. 448, 5061, 5801)

Para. 36. Section 179.34 is revised to read as follows:

§ 179.34 Special tax registration and return.

(a) *General.* Special tax shall be paid by return. The prescribed return is ATF Form 5630.5, Special Tax Registration and Return. Special tax returns, with payment of tax, shall be filed with ATF in accordance with instructions on the form. Properly completing, signing, and timely filing of a return (Form 5630.5) constitutes compliance with 26 U.S.C. 5802.

(b) *Preparation of ATF Form 5630.5.* All of the information called for on Form 5630.5 shall be provided, including:

(1) The true name of the taxpayer.

(2) The trade name(s) (if any) of the business(es) subject to special tax.

(3) The employer identification number (see § 179.35).

(4) The exact location of the place of business, by name and number of building or street, or if these do not exist, by some description in addition to the post office address. In the case of one return for two or more locations, the address to be shown shall be the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer).

(5) The class(es) of special tax to which the taxpayer is subject.

(6) Ownership and control information: That is, the name, position, and residence address of every owner of the business and of every person having power to control its management and policies with respect to the activity subject to special tax. "Owner of the business" shall include every partner, if the taxpayer is a partnership, and every person owning 10% or more of its stock, if the taxpayer is a corporation. However, the ownership and control information required by this paragraph need not be stated if the same information has been previously provided to ATF in connection with a license application under Part 178 of this chapter, and if the information previously provided is still current.

(c) *Multiple locations and/or classes of tax.* A taxpayer subject to special tax for the same period at more than one location or for more than one class of tax shall—

(1) File one special tax return, ATF Form 5630.5, with payment of tax, to cover all such locations and classes of tax; and

(2) Prepare, in duplicate, a list identified with the taxpayer's name, address (as shown on ATF Form 5630.5), employer identification number, and period covered by the return. The list shall show, by States, the name, address, and tax class of each location for which special tax is being paid. The original of the list shall be filed with ATF in accordance with instructions on the return, and the copy shall be retained at the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer) for not less than 3 years.

(d) *Signing of ATF Forms 5630.5*—(1) *Ordinary returns.* The return of an individual proprietor shall be signed by the individual. The return of a partnership shall be signed by a general partner. The return of a corporation shall be signed by any officer. In each case, the person signing the return shall designate his or her capacity as "individual owner," "member of firm," or, in the case of a corporation, the title of the officer.

(2) *Fiduciaries.* Receivers, trustees, assignees, executors, administrators, and other legal representatives who continue the business of a bankrupt, insolvent, deceased person, etc., shall indicate the fiduciary capacity in which they act.

(3) *Agent or attorney in fact.* If a return is signed by an agent or attorney in fact, the signature shall be preceded by the name of the principal and followed by the title of the agent or attorney in fact. A return signed by a person as agent will not be accepted unless there is filed, with the ATF office with which the return is required to be filed, a power of attorney authorizing the agent to perform the act.

(4) *Perjury statement.* ATF Forms 5630.5 shall contain or be verified by a written declaration that the return has been executed under the penalties of perjury.

(26 U.S.C. 5142, 5802, 5846, 6061, 6065, 6151)

Para. 37. Section 179.35 is revised to read as follows:

§ 179.35 Employer identification number.

(a) *Requirement.* The employer identification number (defined in 26 CFR 301.7701-12) of the taxpayer who has been assigned such a number shall be shown on each special tax return, including amended returns, filed under this subpart. Failure of the taxpayer to include the employer identification number may result in the imposition of the penalty specified in § 70.105 of this chapter.

(b) *Application for employer identification number.* Each taxpayer who files a special tax return, who has not already been assigned an employer identification number, shall file IRS Form SS-4 to apply for one. The taxpayer shall apply for and be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file a special tax return. The employer identification number shall be applied for no later than 7 days after the filing of the taxpayer's first special tax return. IRS Form SS-4 may be obtained from the director of an IRS service center or from any IRS district director.

(c) *Preparation and filing of IRS Form SS-4.* The taxpayer shall prepare and file IRS Form SS-4, together with any supplementary statement, in accordance with the instructions on the form or issued in respect to it.

(26 U.S.C. 6109)

Para. 38. Section 179.38 is amended by revising the third sentence to read as follows:

§ 179.38 Engaging in business at more than one location.

* * * * *

A manufacturer, upon the single payment of the appropriate special (occupational) tax, may sell firearms, if such firearms are of his own manufacture, at the place of manufacture and at his principal office or place of business if no such firearms, except samples, are kept at such office or place of business. * * *

§ 179.39 [Amended]

Para. 39. Section 179.39 is amended by removing the last two sentences.

Para. 40. Section 179.68 is amended by revising the first sentence to read as follows:

§ 179.68 Qualified manufacturer.

A manufacturer qualified under this part to engage in such business may make firearms without payment of the making tax. * * *

Para. 41. In § 179.88, paragraph (a) and the second sentence of paragraph (b) are revised to read as follows:

§ 179.88 Special (occupational) taxpayers.

(a) A firearm registered to a person qualified under this part to engage in business as an importer, manufacturer, or dealer may be transferred by that person without payment of the transfer tax to any other person qualified under this part to manufacture, import, or deal in firearms.

(b) * * * The application, Form 3 (Firearms), shall (1) show the name and address of the transferor and of the transferee, (2) identify the Federal firearms license and special (occupational) tax stamp of the transferor and of the transferee, (3) show the name and address of the manufacturer and the importer of the firearm, if known, (4) show the type, model, overall length (if applicable), length of barrel, caliber, gauge or size, serial number, and other marks of identification of the firearm, and (5) contain a statement by the transferor that he is entitled to the exemption because the transferee is a person qualified under this part to manufacture, import, or deal in firearms. * * *

* * * * *

PART 194—LIQUOR DEALERS

Para. 42. The authority citation for Part 194 is revised to read as follows:

Authority: 26 U.S.C. 5001, 5002, 5111–5117, 5121–5124, 5142, 5143, 5145, 5146, 5206, 5207, 5301, 5352, 5555, 5613, 5681, 5691, 6001, 6011, 6061, 6065, 6071, 6091, 6109, 6151, 6311, 6314, 6402, 6511, 6601, 6621, 6651, 6657, 7011, 7805.

Para. 43. The table of sections for Part 194 is amended to reflect the addition of new § 194.187a in Subpart L immediately following § 194.187, and the removal of §§ 194.106b–194.106c from Subpart H and of §§ 194.204–194.205 from Subpart M, as follows:

Subpart L—Exemptions and Exceptions

* * * * *

194.187a Limited retail dealers.

* * * * *

Para. 44. Section 194.1 is revised to read as follows:

§ 194.1 Applicability.

This part contains the substantive and procedural requirements relating to the special taxes imposed on wholesale and retail dealers in liquors and in beer, requirements and procedures pertaining to operations of such dealers prescribed under Title 26 of the United States Code, as amended, and provisions relating to entry of premises and inspection of records by ATF officers.

§ 194.21 [Amended]

Para. 45. Section 194.21 is amended by replacing, at the end of the second sentence, the regulatory citation "194.28" with the citation "194.26."

Para. 46. Section 194.23 is amended by revising paragraph (c)(3) to read as follows:

§ 194.23 Retail dealer in liquors.

* * * * *

(c) * * *

(3) A person who is exempt from special tax under the provisions of §§ 194.181–194.184, 194.187, or 194.187a.

Para. 47. Section 194.25 is amended by revising paragraph (c)(2) to read as follows:

§ 194.25 Retail dealer in beer.

* * * * *

(c) * * *

(2) A person who is exempt from special tax under the provisions of §§ 194.181, 194.184, 194,187, or 194.187a.

Para. 48. Section 194.27 is revised to read as follows:

§ 194.27 Limited retail dealer; persons eligible.

Any person selling distilled spirits, beer or wine, or any combination thereof, to members, guests, or patrons of bona fide fairs, reunions, picnics, carnivals, or similar outings, and any fraternal, civic, church, labor, charitable, benevolent, or ex-servicemen's organization selling distilled spirits, beer or wine, or any combination thereof, on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it, is a "limited retail dealer," if the person or organization is not otherwise engaged in business as a dealer.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1344; sec. 1905, Pub. L. 94–455, 90 Stat. 1819, as amended (26 U.S.C. 5122))

§ 194.29 Clubs or similar organizations.

Para. 49. Section 194.29 is amended by revising paragraph (b) to read as follows:

* * * * *

(b) Conducts a bar for the sale of liquors on the occasion of an outing, picnic, or other entertainment, unless the club is a "limited retail dealer" under § 194.27 (the special tax stamp of the proprietor of the premises where the bar is located will not relieve the club or organization of special tax liability); or

* * * * *

Para. 50. Section 194.101 is revised to read as follows:

§ 194.101 Special tax rates.

(a) *Previous rates.* Prior to January 1, 1988, the special (occupational) taxes imposed on dealers in liquors and beer were as follows:

(1) *Annual (tax year) rates:*

Wholesale dealer in liquors (spirits, wines, beer)	$225.00
Wholesale dealer in beer (beer only)	123.00
Retail dealer in liquors (spirits, wines, beer)	54.00
Retail dealer in beer (beer only)	24.00

(2) *Monthly (calendar month) rates:*

Limited retail dealer (spirits, wines, beer)	$4.50
Limited retail dealer (wines, beer)	2.20

(b) *Current rates.* Effective January 1, 1988, special (occupational) taxes are imposed on dealers in liquors and beer at the following rates:

Wholesale dealer in liquors (spirits, wines, beer)	$500
Wholesale dealer in beer (beer only)	500
Retail dealer in liquors (spirits, wines, beer)	250
Retail dealer in beer (beer only)	250

(Sec. 201, Pub. L. 85–859, 72 Stat. 1340, 1343; sec. 1905, Pub. L. 94–455, 90 Stat. 1819 (26 U.S.C. 5111, 5121))

Para. 51. Section 194.103 is amended by designating the existing material as paragraph "(a) *General.*" and by adding a new paragraph (b), which reads as follows:

§ 194.103 Computation of special tax.

(a) *General.* * * *

(b) *Transition rule.* A taxpayer who was engaged in a business on January 1, 1988, for which a special (occupational) tax was paid for a taxable period which began before January 1, 1988, and included that date, shall pay an increased special tax for the period January 1, 1988, through June 30, 1988. The increased tax shall not exceed one-half the excess (if any) of (1) the rate of special tax in effect on January 1, 1988, over (2) the rate of such tax in effect on December 31, 1987. The increased special tax shall be paid on or before April 1, 1988.

Para. 52. Section 194.106 is revised to read as follows:

§ 194.106 Special tax returns.

(a) *General.* Special tax shall be paid by return. The prescribed return is ATF Form 5630.5, Special Tax Registration and Return. Special tax returns, with payment of tax, shall be filed with AFT in accordance with instructions on the form.

(b) *Preparation of ATF Form 5630.5.* All of the information called for on ATF Form 5630.5 shall be provided, including:

(1) The true name of the taxpayer.

(2) The trade name(s) (if any) of the business(es) subject to special tax.

(3) The employer identification number (see § 194.106a).

(4) The exact location of the place of business, by name and number of building or street, or if these do not exist, by some description in addition to the post office address. In the case of one return for two or more locations, the address to be shown shall be the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer).

(5) The class(es) of special tax to which the taxpayer is subject.

(6) Ownership and control information: That is, the name, position, and residence address of every owner of

the business and of every person having power to control its management and policies with respect to the activity subject to special tax. "Owner of the business" shall include every partner, if the taxpayer is a partnership, and every person owning 10% or more of its stock, if the taxpayer is a corporation. However, the ownership and control information required by this paragraph need not be stated if the same information has been previously provided to ATF, and if the information previously provided is still current.

(c) *Multiple locations and/or classes of tax.* A taxpayer subject to special tax for the same period at more than one location or for more than one class of tax shall—

(1) File one special tax return, ATF Form 5630.5, with payment of tax, to cover all such locations and classes of tax; and

(2) Prepare, in duplicate, a list identified with the taxpayer's name, address (as shown on ATF Form 5630.5), employer identification number, and period covered by the return. The list shall show, by States, the name, address, and tax class of each location for which special tax is being paid. The original of the list shall be filed with ATF in accordance with instructions on the return, and the copy shall be retained at the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer) for the period specified in § 194.237.

(26 U.S.C. 6011, 6151, 7011)

Para. 53. Section 194.106a is revised to read as follows:

§ 194.106a Employer identification number.

(a) *Requirement.* The employer identification number (defined in 26 CFR 301.7701–12) of the taxpayer who has been assigned such a number shall be shown on each special tax return, including amended returns, filed under this subpart. Failure of the taxpayer to include the employer identification number may result in the imposition of the penalty specified in § 70.105 of this chapter.

(b) *Application for employer identification number.* Each taxpayer who files a special tax return, who has not already been assigned an employer identification number, shall file IRS Form SS–4 to apply for one. The taxpayer shall apply for and be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file a special tax return. The employer identification number shall be applied for no later than 7 days after the filing of the taxpayer's first special tax return. IRS Form SS–4 may be obtained from the director of an IRS service center or from any IRS district director.

(c) *Preparation and filing of IRS Form SS–4.* The taxpayer shall prepare and file IRS Form SS–4, together with any supplementary statement, in accordance with the instructions on the form or issued in respect to it.

(26 U.S.C. 6109)

§§ 194.106b and 194.106c [Removed.]

Para 54. Sections 194.106b and 194.106c are removed from the part.

§ 194.151 [Amended]

Para 55. Paragraph (a) of § 194.151 is amended by replacing, in the first proviso, the words "who filed an original return, Form 5630.5, under the provisions of § 194.106(b)" with the words "whose original return on ATF Form 5630.5 covered only one location".

Para. 56. New § 194.187a is added immediately following § 197.187, to read as follows:

§ 194.187a Limited retail dealers.

Limited retail dealers, as specified in § 194.27, are not required to pay special tax.

§§ 194.204–194.205 [Removed.]

Para. 57. Sections 194.204 and 194.205 are removed from Part 194.

PART 197—DRAWBACK ON DISTILLED SPIRITS USED IN MANUFACTURING NONBEVERAGE PRODUCTS

Para. 58. The authority citation for Part 197 is revised to read as follows:

Authority: 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. 59. The table of sections for Part 197 is amended (1) to revise the heading for § 197.25, (2) to add new § 197.25a, (3) to remove §§ 197.29b–197.29c and 197.55–197.56, and (4) to revise the undesignated center heading following § 197.54, as follows:

* * * * *

Subpart C—Special Tax

Sec.
197.25 Payment of special tax.
197.25a Rates of special tax.

* * * * *

Refund of Special Tax

* * * * *

Para. 60. Section 197.25 is revised to read as follows:

§ 197.25 Payment of special tax.

Each person who uses distilled spirits in the manufacture or production of medicines, medicinal preparations, food products, flavors, or flavoring extracts which are unfit for beverage purposes, in order to be eligible for drawback on the distilled spirits so used, must pay special tax at the proper rate, as specified in § 197.25a. Where a claim is filed in the first quarter of a tax year, covering distilled spirits used during the preceding tax year, and special tax has not been paid for the preceding tax year, special tax for the preceding tax year must be paid in the appropriate amount. Special tax may be paid in advance of actual use of distilled spirits. The manufacturer is not required to pay the special tax if he does not claim drawback on the distilled spirits used by him.

Para. 61. New § 197.25a is added immediately following § 197.25, to read as follows:

§ 197.25a Rates of special tax.

(a) *Previous rates.* Prior to January 1, 1988, the rates of special tax were as follows: $25 per tax year for total annual use not exceeding 25 proof gallons of distilled spirits, $50 per tax year for total annual use not exceeding 50 proof gallons, and $100 per tax year for total annual use of more than 50 proof gallons.

(b) *Current rate.* Effective January 1, 1988, the rate of special tax is $500 per tax year for all persons claiming drawback on distilled spirits used in the manufacture or production of nonbeverage products.

(c) *Transition rule.* Manufacturers engaged in drawback operations on January 1, 1988, who paid special tax for a taxable period which began before January 1, 1988, and included that date, shall pay an increased special tax, which shall not exceed one-half the excess (if any) of (1) the rate of special tax in effect on January 1, 1988, over (2) the rate of such tax in effect on December 31, 1987. The increased special tax shall be paid on or before April 1, 1988.

Para. 62. Section 197.27 is revised to read as follows:

§ 197.27 Time for payment of special tax.

The special tax shall be paid before a claimant is eligible for drawback. Regardless of the portion of a tax year covered by a claim, the full annual special tax shall be paid.

Para. 63. Section 197.28 is revised to read as follows:

§ 197.28 Filing of return and payment of special tax.

Special tax shall be paid by return. The prescribed return is ATF Form 5630.5, Special Tax Registration and Return. Special tax returns, with payment of tax, shall be filed with ATF in accordance with instructions on the form.

(26 U.S.C. 6151)

Para. 64. Section 197.29 is revised to read as follows:

§ 197.29 General.

(a) *Preparation of ATF Form 5630.5.* All of the information called for on Form 5630.5 shall be provided, including:

(1) The true name of the taxpayer.

(2) The trade name(s) (if any) of the business(es) subject to special tax.

(3) The employer identification number (see § 197.29a).

(4) The exact location of the place of business, by name and number of building or street, or if these do not exist, by some description in addition to the post office address. In the case of one return for two or more locations, the address to be shown shall be the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer).

(5) The class(es) of special tax to which the taxpayer is subject.

(6) Ownership and control information: that is, the name, position, and residence address of every owner of the business and of every person having power to control its management and policies with respect to the activity subject to special tax. "Owner of the business" shall include every partner, if the taxpayer is a partnership, and every person owning 10% or more of its stock, if the taxpayer is a corporation. However, the ownership and control information required by this paragraph need not be stated if the same information has been previously provided to ATF, and if the information previously provided is still current.

(b) *Multiple locations and/or classes of tax.* A taxpayer subject to special tax for the same period at more than one location or for more than one class of tax shall—

(1) File one special tax return, ATF Form 5630.5, with payment of tax, to cover all such locations and classes of tax; and

(2) Prepare, in duplicate, a list identified with the taxpayer's name, address (as shown on ATF Form 5630.5), employer identification number, and period covered by the return. The list shall show, by States, the name, address, and tax class of each location for which special tax is being paid. The original of the list shall be filed with ATF in accordance with instructions on the return, and the copy shall be retained at the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer) for not less than 2 years.

(26 U.S.C. 6011, 7011)

Para. 65. Section 197.29a is revised to read as follows:

§ 197.29a Employer identification number.

(a) *Requirement.* The employer identification number (defined in 26 CFR 301.7701-12) of the taxpayer who has been assigned such a number shall be shown on each special tax return, including amended returns, filed under this subpart. Failure of the taxpayer to include the employer identification number may result in the imposition of the penalty specified in § 70.105 of this chapter.

(b) *Application for employer identification number.* Each taxpayer who files a special tax return, who has not already been assigned an employer identification number, shall file IRS Form SS-4 to apply for one. The taxpayer shall apply for and be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file a special tax return. The employer identification number shall be applied for no later than 7 days after the filing of the taxpayer's first special tax return. IRS Form SS-4 may be obtained from the director of an IRS service center or from any IRS district director.

(c) *Preparation and filing of IRS Form SS-4.* The taxpayer shall prepare and file IRS FOrm SS-4, together with any supplementary statement, in accordance with the instructions on the form or issued in respect to it.

(26 U.S.C. 6109)

§§ 197.29b-197.29c [Removed]

Para. 66. Sections 197.29b and 197.29c are removed from Part 197.

§ 197.40a [Amended]

Para. 67. Section 197.40a is amended by replacing the regulatory cross reference "§ 197.28" with the reference "§ 197.29(b)".

Para. 68. The undersignated center heading immediately following § 197.54 is revised to read as follows:

Refund of Special Tax

§§ 197.55-197.56 [Removed]

Para. 69. Sections 197.55 and 197.56 are removed from Part 197.

Para. 70. 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 and tax year for which issued.

PART 231—TAXPAID WINE BOTTLING HOUSES

Para. 71. The authority citation for Part 231 is revised to read as follows:

Authority: 26 U.S.C. 5062, 5081, 5111, 5112, 5121, 5122, 5142, 5143, 5172, 5178, 5352, 5356, 5363, 5367, 5368, 5369, 5552, 5661, 6065, 7011, 7342, 7606, 7805.

Para. 72. The table of sections in 27 CFR Part 231 is amended to remove § 231.52 and to add Subpart CA. As amended, the table of sections reads as follows:

* * * * *

Subpart Ca—Special (Occupational) Taxes

Sec.
231.32 Occupational taxes.
231.33 Rates of special tax.
231.34 Each place of business taxable.
231.35 Dealer's special taxes.
231.36 Special tax returns.
231.37 Employer identification number.

Special Tax Stamps

231.38 Issuance, distribution, and examination of special tax stamps.
231.39 Changes in special tax stamps.

* * * * *

Para. 73. Part 231 of 27 CFR is amended by adding Subpart Ca to read as follows:

Subpart Ca—Special (Occupational) Taxes

§ 231.32 Occupational taxes.

(a) *General.* Every proprietor of a taxpaid wine bottling house shall pay a special (occupational) tax at the rate specified by § 231.33. Such a proprietor may also be required to pay a special tax as a dealer (see § 231.35). The tax shall be paid on or before the date of commencing business as a taxpaid wine bottling house proprietor, and thereafter every year on or before July 1. On commencing business, the tax shall be computed from the first day of the month in which liability is incurred, through the following June 30. Thereafter, the tax shall be computed for the entire year (July 1 through June 30).

(b) *Transition rule.* For purposes of paragraph (a) of this section, proprietors operating a taxpaid wine bottling house on January 1, 1988, shall be treated as having commenced operations on that date. The special tax imposed by this transition rule shall cover the period

January 1, 1988, through June 30, 1988, and shall be paid on or before April 1, 1988.

(26 U.S.C. 5081, 5142)

§ 231.33 Rates of special tax.

(a) *General.* Title 26 U.S.C. 5081(a)(4) imposes a special tax of $1,000 per year on every proprietor of a taxpaid wine bottling house.

(b) *Reduced rate for small proprietors.* Title 26 U.S.C. 5081(b) provides for a reduced rate of $500 per year with respect to any taxpaid wine bottling house proprietor whose gross receipts (for the most recent taxable year ending before the first day of the taxable period to which the special tax imposed by § 231.32 relates) are less than $500,000. The "taxable year" to be used for determining gross receipts is the taxpayer's income tax year. All gross receipts of the taxpayer shall be included, not just the gross receipts of the business subject to special tax. Proprietors of new businesses that have not yet begun a taxable year, as well as proprietors of existing businesses that have not yet ended a taxable year, who commence a new activity subject to special tax, qualify for the reduced special (occupational) tax rate, unless the business is a member of a "controlled group"; in that case, the rules of paragraph (c) of this section shall apply.

(c) *Controlled group.* All persons treated as one taxpayer under 26 U.S.C. 5061(e)(3) shall be treated as one taxpayer for the purpose of determining gross receipts under paragraph (b) of this section. "Controlled group" means a controlled group of corporations, as defined in 26 U.S.C. 1563 and implementing regulations in 26 CFR 1.1563-1 through 1.1563-4, except that the words "at least 80 percent" shall be replaced by the words "more than 50 percent" in each place they appear in subsection (a) of 26 U.S.C. 1563, as well as in the implementing regulations. Also, the rules for a "controlled group of corporations" apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50% control over a group consisting of corporations and one, or more, partnerships and/or sole proprietorships, all of the members of the controlled group are one taxpayer for the purpose of this section.

(d) *Short taxable year.* Gross receipts for any taxable year of less than 12 months shall be annualized by multiplying the gross receipts for the short period by 12 and dividing the result by the number of months in the short period as required by 26 U.S.C. 448(c)(3).

(e) *Returns and allowances.* Gross receipts for any taxable year shall be reduced by returns and allowances made during such year under 26 U.S.C. 448(c)(3).

(26 U.S.C. 448, 5081)

§ 231.34 Each place of business taxable.

A proprietor of a taxpaid wine bottling house incurs special tax liability at each place of business in which an occupation subject to special tax is conducted. A place of business means the entire office, plant or area of the business in any one location under the same proprietorship. Passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises are not sufficient separation to require additional special tax, if the divisions of the premises are otherwise contiguous.

(26 U.S.C. 5143)

§ 231.35 Dealer's special taxes.

(a) *Liability of bottling house proprietors.* A proprietor of a taxpaid wine bottling house who sells wine shall file a special tax return on Form 5630.5 and pay special (occupational) tax as a wholesale dealer or retail dealer, as the case may be, as provided in Part 194 of this chapter.

(b) *Wholesale sales at purchaser's place of business.* A wholesale dealer in liquors who has paid the appropriate special tax will not again be required to pay special tax as a wholesale dealer because of sales of wine to wholesale or retail dealers in liquors or to limited retail dealers, at the purchaser's place of business.

(26 U.S.C. 5111, 5112, 5113, 5121, 5122, 5142, 7011)

§ 231.36 Special tax returns.

(a) *General.* Special tax shall be paid by return. The prescribed return is ATF Form 5630.5, Special Tax Registration and Return. Special tax returns, with payment of tax, shall be filed with ATF in accordance with instructions on the form.

(b) *Preparation of ATF Form 5630.5.* All of the information called for on Form 5630.5 shall be provided, including:

(1) The true name of the taxpayer.

(2) The trade name(s) (if any) of the business(es) subject to special tax.

(3) The employer identification number (see §231.37).

(4) The exact location of the place of business, by name and number of building or street, or if these do not exist, by some description in addition to the post office address. In the case of one return for two or more locations, the address to be shown shall be the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer).

(5) The class(es) of special tax to which the taxpayer is subject.

(6) Ownership and control information: that is, the name, position, and residence address of very owner of the business and of every person having power to control its management and policies with respect to the activity subject to special tax. "Owner of the business" shall include every partner, if the taxpayer is a partnership, and every person owning 10% or more of its stock, if the taxpayer is a corporation. However, the ownership and control information required by this paragraph need not be stated if the same information has been previously provided to ATF in connection with a permit application, and if the information previously provided is still current.

(c) *Mutiple locations and/or classes of tax.* A taxpayer subject to special tax for the same period at more than one location or for more than one class of tax shall—

(1) File one special tax return, ATF Form 5630.5, with payment of tax, to cover all such locations and classes of tax; and

(2) Prepare, in duplicate, a list identified with the taxpayer's name, address (as shown on ATF Form 5630.5), employer identification number, and period covered by the return. The list shall show, by States, the name, address, and tax class of each location for which special tax is being paid. The original of the list shall be filed with ATF in accordance with instructions on the return, and the copy shall be retained at the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer) for the period specified in § 231.114.

(d) *Signing of ATF Forms 5630.5*—(1) *Ordinary returns.* The return of an individual proprietor shall be signed by the individual. The return of a partnership shall be signed by a general partner. The return of a corporation shall be signed by any officer. In each case, the person signing the return shall designate his or her capacity as "individual owner," "member of firm," or, in the case of a corporation, the title of the officer.

(2) *Fiduciaries.* Receivers, trustees, assignees, executors, administrators, and other legal representatives who continue the business of a bankrupt, insolvent, deceased person, etc., shall

indicate the fiduciary capacity in which they act.

(3) *Agent or attorney in fact.* If a return is signed by an agent or attorney in fact, the signature shall be preceded by the name of the principal and followed by the title of the agent or attorney in fact. A return signed by a person as agent will not be accepted unless there is filed, with the ATF office with which the return is required to be filed, a power of attorney authorizing the agent to perform the act.

(4) *Perjury statement.* ATF Forms 5630.5 shall contain or be verified by a written declaration that the return has been executed under the penalties of perjury.

(26 U.S.C. 5142, 6061, 6065, 6151, 7011)

§ 231.37 Employer identification number.

(a) *Requirement.* The employer identification number (defined in 26 CFR 301.7701–12) of the taxpayer who has been assigned such a number shall be shown on each special tax return, including amended returns, filed under this subpart. Failure of the taxpayer to include the employer identification number may result in the imposition of the penalty specified in § 70.105 of this chapter.

(b) *Application for employer identification number.* Each taxpayer who files a special tax return, who has not already been assigned an employer identification number, shall file IRS Form SS–4 to apply for one. The taxpayer shall apply for and be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file a special tax return. The employer identification number shall be applied for no later than 7 days after the filing of the taxpayer's first special tax return. IRS Form SS–4 may be obtained from the director of an IRS service center or from any IRS district director.

(c) *Preparation and filing of IRS Form SS–4.* The taxpayer shall prepare and file IRS Form SS–4, together with any supplementary statement, in accordance with the instructions on the form or issued in respect to it.

(26 U.S.C. 6109)

Special Tax Stamps

§ 231.38 Issuance, distribution, and examination of special tax stamps.

(a) *Issuance of special tax stamps.* Upon filing a properly executed return on ATF Form 5630.5, together with the full remittance, the taxpayer will be issued an appropriately designated special tax stamp. If the return covers multiple locations, the taxpayer will be issued one appropriately designated stamp for each location listed on the attachment required by § 231.36(c), but showing, as to name and address, only the name of the taxpayer and the address of the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer).

(b) *Distribution of special tax stamps for multiple locations.* On receipt of the special tax stamps, the taxpayer shall verify that there is one stamp for each location listed on the attachment to ATF Form 5630.5. The taxpayer shall designate one stamp for each location and shall type on each stamp the address of the business conducted at the location for which that stamp is designated. The taxpayer shall then forward each stamp to the place of business designated on the stamp.

(c) *Examination of special tax stamps.* All stamps denoting payment of special tax shall be kept available for inspection by ATF officers, at the location for which designated, during business hours.

(26 U.S.C. 5146, 6806)

§ 231.39 Changes in special tax stamps.

(a) *Change in name.* If there is a change in the corporate or firm name, or in the trade name, as shown on Form 5630.5, the proprietor shall file an amended special tax return as soon as practicable after the change, covering the new corporate or firm name, or trade names. No new special tax is required to be paid. The proprietor shall attach the special tax stamp for endorsement of the change in name.

(b) *Change in proprietorship*—(1) *General.* If there is a change in the proprietorship of a taxpaid wine bottling house, the successor shall pay a new special tax and obtain the required special tax stamps.

(2) *Exemption for certain successors.* Persons having the right of succession provided for in paragraph (c) of this section may carry on the business for the remainder of the period for which the special tax was paid, without paying a new special tax, if within 30 days after the date on which the successor begins to carry on the business, the successor files a special tax return on ATF Form 5630.5 with ATF, which shows the basis of succession. A person who is a successor to a business for which special tax has been paid and who fails to register the succession is liable for special tax computed from the first day of the calendar month in which he or she began to carry on the business.

(c) *Persons having right of succession.* Under the conditions indicated in paragraph (b)(2) of this section, the right of succession will pass to certain persons in the following cases:

(1) *Death.* The widowed spouse or child, or executor, administrator, or other legal representative of the taxpayer;

(2) *Succession of spouse.* A husband or wife succeeding to the business of his or her spouse (living);

(3) *Insolvency.* A receiver or trustee in bankruptcy, or an assignee for benefit of creditors;

(4) *Withdrawal from firm.* The partner or partners remaining after death or withdrawal of a member.

(d) *Change in location.* If there is a change in location of a taxable place of business, the proprietor shall, within 30 days after the change, file with ATF an amended special tax return covering the new location. The proprietor shall attach the special tax stamp or stamps, for endorsement of the change in location. No new special tax is required to be paid. However, if the proprietor does not file the amended return within 30 days, the proprietor is required to pay a new special tax and obtain a new special tax stamp.

(26 U.S.C. 5143, 7011)

§ 231.52 [Removed]

Para. 74. Section 231.52 is removed.

PART 240—WINE

Para. 75. The authority citation for Part 240 is revised to read as follows:

Authority: 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5081, 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. 76. The table of sections in 27 CFR Part 240 is amended to reflect the revision of Subpart N, as follows:

* * * * *

Subpart N—Special (Occupational) Taxes

* * * * *

Para. 77. Subpart N of 27 CFR Part 240 is revised to read as follows:

Subpart N—Special (Occupational) Taxes

§ 240.340 Payment of tax.

(a) *General.* Every proprietor of a bonded wine cellar and every proprietor of a bonded wine warehouse shall pay a special (occupational) tax at the rate specified by § 240.341. The tax shall be paid on or before the date of commencing business as a proprietor of a bonded wine cellar or a proprietor of a bonded wine warehouse, and thereafter every year on or before July 1. On commencing business, the tax shall be computed from the first day of the month in which liability is incurred, through the following June 30. Thereafter, the tax shall be computed for the entire year (July 1 through June 30).

(b) *Transition rule.* For purposes of paragraph (a), proprietors operating bonded wine cellars and bonded wine warehouses on January 1, 1988, shall be treated as having commenced operations on that date. The special tax imposed by this transition rule shall cover the period January 1, 1988, through June 30, 1988, and shall be paid on or before April 1, 1988.

(26 U.S.C. 5081, 5142)

§ 240.341 Rates of special tax.

(a) *General.* Title 26 U.S.C. 5081 (a)(2) and (a)(3) impose a special tax of $1,000 per year on every proprietor of a bonded wine cellar and every proprietor of a bonded wine warehouse.

(b) *Reduced rate for small proprietors.* Title 26 U.S.C. 5081(b) provides for a reduced rate of $500 per year with respect to any proprietor of a bonded wine cellar or bonded wine warehouse whose gross receipts (for the most recent taxable year ending before the first day of the taxable period to which the special tax imposed by § 240.340 relates) are less than $500,000. The "taxable year" to be used for determining gross receipts is the taxpayer's income tax year. All gross receipts of the taxpayer shall be included, not just the gross receipts of the business subject to special tax. Proprietors of new businesses that have not yet begun a taxable year, as well as proprietors of existing businesses that have not yet ended a taxable year, who commence a new activity subject to special tax, qualify for the reduced special (occupational) tax rate, unless the business is a member of a "controlled group"; in that case, the rules of paragraph (c) of this section shall apply.

(c) *Controlled group.* All persons treated as one taxpayer under 26 U.S.C. 5061(e)(3) shall be treated as one taxpayer for the purpose of determining gross receipts under paragraph (b) of this section. "Controlled group" means a controlled group of corporations, as defined in 26 U.S.C. 1563 and implementing regulations in 26 CFR 1.1563-1 through 1.1563-4, except that the words "at least 80 percent" shall be replaced by the words "more than 50 percent" in each place they appear in subsection (a) of 26 U.S.C. 1563, as well as in the implementing regulations. Also, the rules for a "controlled group of corporations" apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50% control over a group consisting of corporations and one, or more, partnerships and/or sole proprietorships, all of the members of the controlled group are one taxpayer for the purpose of this section.

(d) *Short taxable year.* Gross receipts for any taxable year of less than 12 months shall be annualized by multiplying the gross receipts for the short period by 12 and dividing the result by the number of months in the short period, as required by 26 U.S.C. 448(c)(3).

(e) *Returns and allowances.* Gross receipts for any taxable year shall be reduced by returns and allowances made during such year under 26 U.S.C. 448(c)(3).

(26 U.S.C. 448, 5061, 5081)

§ 240.342 Wholesaler's special tax.

(a) *General.* A proprietor of a bonded wine cellar shall be subject to or exempt from a wholesaler's special (occupational) tax as provided in Part 194 of this chapter.

(26 U.S.C. 5111, 5142)

§ 240.343 Exemptions from dealer's special taxes.

(a) *Bonded wine cellar.* A proprietor of a bonded wine cellar is not required to pay special tax as a wholesale or retail dealer because of sales, at the proprietor's principal place of business or at the bonded wine cellar, of wine which at the time of sale is stored at the bonded wine cellar or which had been removed and stored in a taxpaid storeroom operated in connection with the bonded wine cellar. The proprietor of the bonded wine cellar shall have only one exemption from dealer's special tax for each bonded wine cellar. The proprietor of the bonded wine cellar may designate, in writing to the regional director (compliance), that the principal place of business will be exempt from dealer's special tax; otherwise, the exemption will apply to the bonded wine cellar.

(b) *Wholesale dealer.* A wholesale dealer in liquors who has paid the appropriate special tax will not again be required to pay special tax as a wholesale dealer because of sales of wine to wholesale or retail dealers in liquors or to limited retail dealers, at the purchaser's place of business.

(26 U.S.C. 5113)

§ 240.344 Each place of business taxable.

(a) *General.* Proprietors of bonded wine cellars and proprietors of bonded wine warehouses incur special tax liability at each place of business in which an occupation subject to special tax is conducted. A place of business means the entire office, plant or area of the business in any one location under the same proprietorship. Passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises are not sufficient separation to require additional special tax, if the divisions of the premises are otherwise contiguous.

(b) *Exception for contiguous areas of bonded wine cellar.* A proprietor of a bonded wine cellar does not incur additional special tax liability for sales of wine made at a location other than on bonded wine cellar premises described in the application, Form 698 (5120.25), if the location where such sales are made is contiguous to the bonded wine cellar premises in the manner described in paragraph (a) of this section.

(26 U.S.C. 5143)

§ 240.345 Special tax returns.

(a) *General.* Special tax shall be paid by return. The prescribed return is ATF Form 5630.5, Special Tax Registration and Return. Special tax returns, with payment of tax, shall be filed with ATF in accordance with instructions on the form.

(b) *Preparation of ATF Form 5630.5.* All of the information called for on Form 5630.5 shall be provided, including:

(1) The true name of the taxpayer.

(2) The trade name(s) (if any) of the business(es) subject to special tax.

(3) The employer identification number (see § 240.346).

(4) The exact location of the place of business, by name and number of building or street, or if these do not exist, by some description in addition to the post office address. In the case of one return for two or more locations, the address to be shown shall be the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer).

(5) The class(es) of special tax to which the taxpayer is subject.

(6) Ownership and control information: that is, the name, position, and residence address of every owner of the business and of every person having power to control its management and policies with respect to the activity subject to special tax. "Owner of the business" shall include every partner, if the taxpayer is a partnership, and every person owning 10% or more of its stock, if the taxpayer is a corporation. However, the ownership and control information required by this paragraph need not be stated if the same information has been previously provided to ATF in connection with a permit application, and if the information previously provided is still current.

(c) *Multiple locations and/or classes of tax.* A taxpayer subject to special tax for the same period at more than one location or for more than one class of tax shall—

(1) File one special tax return, ATF Form 5630.5, with payment of tax, to cover all such locations and classes of tax; and

(2) Prepare, in duplicate, a list identified with the taxpayer's name, address (as shown on ATF Form 5630.5), employer identification number, and period covered by the return. The list shall show, by States, the name, address, and tax class of each location for which special tax is being paid. The original of the list shall be filed with ATF in accordance with instructions on the return, and the copy shall be retained at the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer) for the period specified in § 240.924.

(d) *Signing of ATF Forms 5630.5*—(1) *Ordinary returns.* The return of an individual proprietor shall be signed by the individual. The return of a partnership shall be signed by a general partner. The return of a corporation shall be signed by any officer. In each case, the person signing the return shall designate his or her capacity as "individual owner," "member of firm," or, in the case of a corporation, the title of the officer.

(2) *Fiduciaries.* Receivers, trustees, assignees, executors, administrators, and other legal representatives who continue the business of a bankrupt, insolvent, deceased pereson, etc., shall indicate the fiduciary capacity in which they act.

(3) *Agency or attorney in fact.* If a return is signed by an agent or attorney in fact, the signature shall be preceded by the name of the principal and followed by the title of the agent or attorney in fact. A return signed by a person as agent will not be accepted unless there is filed, with the ATF office with which the return is required to be filed, a power of attorney authorizing the agent to perform the act.

(4) *Perjury statement.* ATF Forms 5630.5 shall contain or be verified by a written declaration that the return has been executed under the penalties of perjury.

(26 U.S.C. 5142, 6061, 6065, 6151, 7011)

§ 240.346 Employer identification number.

(a) *Requirement.* The employer identification number (defined in 26 CFR 301.7701–12) of the taxpayer who has been assigned such a number shall be shown on each special tax return, including amended returns, filed under this subpart. Failure of the taxpayer to include the employer identification number may result in the imposition of the penalty specified in § 70.105 of this chapter.

(b) *Application for employer identification number.* Each taxpayer who files a special tax return, who has not already been assigned an employer identification number, shall file IRS Form SS–4 to apply for one. The taxpayer shall apply for and be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file a special tax return. The employer identification number shall be applied for no later than 7 days after the filing of the taxpayer's first special tax return. IRS Form SS–4 may be obtained from the director of an IRS service center or from any IRS district director.

(c) *Preparation and filing of IRS Form SS–4.* The taxpayer shall prepare and file IRS Form SS–4, together with any supplementary statement, in accordance with the instructions on the form or issued in respect to it.

(26 U.S.C. 6109)

Special Tax Stamps

§ 240.347 Issuance, distribution, and examination of special tax stamps.

(a) *Issuance of special tax stamps.* Upon filing a properly executed return on ATF Form 5630.5, together with the full remittance, the taxpayer will be issued an appropriately designated special tax stamp. If the return covers multiple locations, the taxpayer will be issued one appropriately designated stamp for each location listed on the attachment required by § 240.345(c), but showing, as to name and address, only the name of the taxpayer and the address of the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer).

(b) *Distribution of special tax stamps for multiple locations.* On receipt of the special tax stamps, the taxpayer shall verify that there is one stamp for each location listed on the attachment to ATF Form 5630.5. The taxpayer shall designate one stamp for each location and shall type on each stamp the address of the business conducted at the location for which that stamp is designated. The taxpayer shall then forward each stamp to the place of business designated on the stamp.

(c) *Examination of special tax stamps.* All stamps denoting payment of special tax shall be kept available for inspection by ATF officers, at the location for which designated, during business hours.

(26 U.S.C. 5146, 6806)

§ 240.348 Changes in special tax stamps.

(a) *Change in name.* If there is a change in the corporate or firm name, or in the trade name, as shown on Form 5630.5, the proprietor shall file an amended special tax return as soon as practicable after the change covering the new corporate or firm name, or trade names. No new special tax is required to be paid. The proprietor shall attach the special tax stamp for endorsement of the change in name.

(b) *Change in proprietorship*—(1) *General.* If there is a change in the proprietorship of a bonded wine cellar or a bonded wine warehouse, the successor shall pay a new special tax and obtain the required special tax stamps.

(2) *Exemption for certain successors.* Persons having the right of succession provided for in paragraph (c) of this section may carry on the business for the remainder of the period for which the special tax was paid, without paying a new special tax, if within 30 days after the date on which the successor begins to carry on the business, the successor files a special tax return on ATF Form 5630.5 with ATF, which shows the basis of succession. A person who is a successor to a business for which special tax has been paid and who fails to register the succession is liable for special tax computed from the first day of the calendar month in which he or she began to carry on the business.

(c) *Persons having right of succession.* Under the conditions indicated in paragraph (b)(2) of this section, the right of succession will pass to certain persons in the following cases:

(1) *Death.* The widowed spouse or child, or executor, administrator, or

other legal representative of the taxpayer;

(2) *Succession of spouse.* A husband or wife succeeding to the business of his or her spouse (living);

(3) *Insolvency.* A receiver or trustee in bankruptcy, or an assignee for benefit of creditors;

(4) *Withdrawal from firm.* The partner or partners remaining after death or withdrawal of a member.

(d) *Change in location.* If there is a change in location of a taxable place of business, the proprietor shall, within 30 days after the change, file with ATF an amended special tax return covering the new location. The proprietor shall attach the special tax stamp or stamps, for endorsement of the change in location. No new special tax is required to be paid. However, if the proprietor does not file the amended return within 30 days, the proprietor is required to pay a new special tax and obtain a new special tax stamp.

(26 U.S.C. 5143, 7011)

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

Para. 78. The authority citation for Part 250 is revised to read as follows:

Authority: 19 U.S.C. 81c; 26 U.S.C. 5001, 5007, 5008, 5041, 5051, 5061, 5081, 5111, 5112, 5114, 5121, 5122, 5124, 5131–5134, 5141, 5205, 5207, 5232, 5271, 5276, 5301, 5314, 5555, 6301, 6302, 6804, 7101, 7102, 7651, 7652, 7805, 27 U.S.C. 203, 205; 31 U.S.C. 9301, 9303, 9304, 9306.

Para. 79. The table of sections for Part 250 is amended to add the titles of new §§ 250.46 and 250.47 in Subpart Cb, as follows:

* * * * *

Subpart Cb—Products Coming Into the United States from Puerto Rico

* * * * *

Sec.

250.46 Distilled spirits plant proprietor's special (occupational) tax.

250.47 Specially denatured spirits user's and dealer's special (occupational) taxes.

* * * * *

Para. 80. Section 250.36(b), (c), and (d)(2) are revised to read as follows:

§ 250.36 Products exempt from tax.

* * * * *

(b) *Industrial spirits.* A distiller of industrial spirits who registers, files a bond, and pays special (occupational) tax as a distilled spirits plant in accordance with Part 19 of this chapter may ship industrial spirits to a tax-free alcohol user in the United States who holds a permit and has paid special (occupational) tax under Part 22 of this chapter. These shipments shall be made in accordance with the requirements of Parts 19 and 22 of this chapter.

(c) *Denatured spirits.* A distiller who registers, files a bond, and pays special (occupational) tax as a distilled spirits plant in accordance with Part 19 of this chapter and who denatures spirits in accordance with Parts 19 and 21 of this chapter may ship (1) completely denatured alcohol to anyone in the United States, and/or (2) specially denatured spirits to a dealer or user of specially denatured spirits in the United States or Puerto Rico who holds a permit and has paid special (occupational) tax under Part 20 of this chapter. These shipments shall be made in accordance with the requirements of Parts 19 and 20 of this chapter, and Subpart Ia of this part.

(d) *Products made with denatured spirits.* * * *

(2) A person in Puerto Rico who manufactures products with specially denatured spirits may ship those products to the United States if that person (i) obtains a permit to use specially denatured spirits, and pays special (occupational) tax, under Part 20 of this chapter, and (ii) complies with the requirements of Part 20 of this chapter and Subpart Ia of this part relating to the manufacture and shipment of those products.

Para. 81. New §§ 250.46 and 250.47 are added in Subpart Cb to read as follows:

§ 250.46 Distilled spirits plant proprietor's special (occupational) tax.

Every proprietor of a distilled spirits plant producing industrial spirits, denatured spirits, or products made with denatured spirits, for shipment to the United States, shall file Form 5630.5 with ATF in accordance with instructions on the form and pay special (occupational) tax as a distilled spirits plant proprietor in accordance with Part 19 of this chapter.

(26. U.S.C. 5081, 5314)

§ 250.47 Specially denatured spirits user's and dealer's special (occupational) taxes.

Every user of specially denatured spirits who manufactures products made with such spirits for shipment to the United States, and every dealer in specially denatured spirits who ships such spirits to the United States, who is required by § 250.36 to obtain a permit under Part 20 of this chapter, shall file Form 5630.5 with ATF in accordance with instructions on the form and pay special (occupational) tax as a user or dealer in specially denatured spirits under Part 20 of this chapter.

(26 U.S.C. 5271, 5276, 5314)

Para. 82. Section 250.171 is amended by replacing the third and fourth sentences with the following:

§ 250.171 Special tax.

* * * * *

If special tax is paid for any such business location under Part 197 of this chapter, as a place where nonbeverage products are manufactured for purposes of drawback, then no additional special tax need be paid for that location under this section.

§ 250.173 [Amended]

Para. 83. Section 250.173(c)(1) is amended by removing the words "and denomination".

Para. 84. Section 250.307 is amended by replacing the third and fourth sentences with the following:

§ 250.307 Special tax.

* * * * *

If special tax is paid for any such business location under Part 197 of this chapter, as a place where nonbeverage products are manufactured for purposes of drawback, then no additional special tax need be paid for that location under this section.

§ 250.309 [Amended]

Para. 85. Section 250.309(c)(1) is amended by removing the words "and denomination".

PART 270—MANUFACTURE OF TOBACCO PRODUCTS

Para. 86. The authority citation for Part 270 is revised to read as follows:

Authority: 26 U.S.C. 5142, 5143, 5146, 5701, 5703–5705, 5711–5713, 5721–5723, 5731, 5741, 5751, 5753, 5761–5763, 6061, 6065, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6404, 6423, 6676, 6806, 7011, 7212, 7325, 7342, 7502, 7503, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Para. 87. The table of sections for Part 270 is amended to add Subpart Ca, immediately following Subpart C, to read as follows:

* * * * *

Subpart Ca—Special (Occupational) Taxes

Sec.

270.31 Liability for special tax.

270.32 Rates of special tax.

270.33 Special tax returns.

270.34 Employer identification number.

270.35 Issuance, distribution, and examination of special tax stamps.

270.36 Changes in special tax stamps.

* * * * *

Para. 88. Subpart Ca is added immediately following the regulations in Subpart C to read as follows:

Subpart Ca—Special (Occupational) Taxes

§ 270.31 Liability for special tax.

(a) *Manufacturer of tobacco products.* Every manufacturer of tobacco products shall pay a special (occupational) tax at a rate specified by § 270.32 of the part. The tax shall be paid on or before the date of commencing the business of manufacturing tobacco products, and thereafter every year on or before July 1. On commencing business, the tax shall be computed from the first day of the month in which liability is incurred, through the following June 30. Thereafter, the tax shall be computed for the entire year (July 1 through June 30).

(b) *Transition rule.* For purposes of paragraph (a) of this section, a proprietor engaged in the business of manufacturing tobacco products on January 1, 1988, shall be treated as having commenced business on that date. The special tax imposed by this transition rule shall cover the period January 1, 1988, through June 30, 1988, and shall be paid on or before April 1, 1988.

(c) *Each place of business taxable.* A manufacturer of tobacco products incurs special tax liability at each place of business in which an occupation subject to special tax is conducted. A place of business means the entire office, plant or area of the business in any one location under the same proprietorship. Passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises are not sufficient separation to require additional special tax, if the divisions of the premises are otherwise contiguous.

(26 U.S.C. 5143, 5731)

§ 270.32 Rates of special tax.

(a) *General.* Title 26 U.S.C. 5731(a)(1) imposes a special tax of $1,000 per year on every manufacturer of tobacco products.

(b) *Reduced rate for small proprietors.* Title 26 U.S.C. 5731(b) provides for a reduced rate of $500 per year with respect to any manufacturer of tobacco products whose gross receipts (for the most recent taxable year ending before the first day of the taxable period to which the special tax imposed by § 270.31 relates) are less than $500,000. The "taxable year" to be used for determining gross receipts is the taxpayer's income tax year. All gross receipts of the taxpayer shall be included, not just the gross receipts of the business subject to special tax. Proprietors of new businesses that have not yet begun a taxable year, as well as proprietors of existing businesses that have not yet ended a taxable year, who commence a new activity subject to special tax, qualify for the reduced special (occupational) tax rate, unless the business is a member of a "controlled group"; in that case, the rules of paragraph (c) of this section shall apply.

(c) *Controlled group.* All persons treated as one taxpayer under 26 U.S.C. 5061(e)(3) shall be treated as one taxpayer for the purpose of determining gross receipts under paragraph (b) of this section. "Controlled group" means a controlled group of corporations, as defined in 26 U.S.C. 1563 and implementing regulations in 26 CFR 1.1563–1 through 1.1563–4, except that the words "at least 80 percent" shall be replaced by the words "more than 50 percent" in each place they appear in subsection (a) of 26 U.S.C. 1563, as well as in the implementing regulations. Also, the rules for a "controlled group of corporations" apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50% control over a group consisting of corporations and one, or more, partnerships and/or sole proprietorships, all of the members of the controlled group are one taxpayer for the purpose of this section.

(d) *Short taxable year.* Gross receipts for any taxable year of less than 12 months shall be annualized by multiplying the gross receipts for the short period by 12 and dividing the result by the number of months in the short period as required by 26 U.S.C. 448(c)(3).

(e) *Returns and allowances.* Gross receipts for any taxable year shall be reduced by returns and allowances made during such year under 26 U.S.C. 448(c)(3).

(26 U.S.C. 448, 5061, 5731)

§ 270.33 Special tax returns.

(a) *General.* Special tax shall be paid by return. The prescribed return is ATF Form 5630.5, Special Tax Registration and Return. Special tax returns, with payment of tax, shall be filed with ATF in accordance with instructions on the form.

(b) *Preparation of ATF Form 5630.5.* All of the information called for on Form 5630.5 shall be provided, including:

(1) The true name of the taxpayer.

(2) The trade name(s) (if any) of the business(es) subject to special tax.

(3) The employer identification number (see § 270.34).

(4) The exact location of the place of business, by name and number of building or street, or if these do not exist, by some description in addition to the post office address. In the case of one return for two or more locations, the address to be shown shall be the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer).

(5) The class(es) of special tax to which the taxpayer is subject.

(6) Ownership and control information: that is, the name, position, and residence address of every owner of the business and of every person having power to control its management and policies with respect to the activity subject to special tax. "Owner of the business" shall include every partner, if the taxpayer is a partnership, and every person owning 10% or more of its stock, if the taxpayer is a corporation. However, the ownership and control information required by this paragraph need not be stated if the same information has been previously provided to ATF in connection with a permit application, and if the information previously provided is still current.

(c) *Multiple locations and/or classes of tax.* A taxpayer subject to special tax for the same period at more than one location or for more than one class of tax shall—

(1) File one special tax return, ATF Form 5630.5, with payment of tax, to cover all such locations and classes of tax; and

(2) Prepare, in duplicate, a list identified with the taxpayer's name, address (as shown on ATF Form 5630.5), employer identification number, and period covered by the return. The list shall show, by States, the name, address, and tax class of each location for which special tax is being paid. The original of the list shall be filed with ATF in accordance with instructions on the return, and the copy shall be retained at the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer) for the period specified in § 270.185.

(d) *Signing of ATF Forms 5630.5*—(1) *Ordinary returns.* The return of an individual proprietor shall be signed by the individual. The return of a partnership shall be signed by a general partner. The return of a corporation shall be signed by any officer. In each case, the person signing the return shall designate his or her capacity as "individual owner," "member of firm," or, in the case of a corporation, the title of the officer.

(2) *Fiduciaries.* Receivers, trustees, assignees, executors, administrators, and other legal representatives who continue the business of a bankrupt, insolvent, deceased person, etc., shall

indicate the fiduciary capacity in which they act.

(3) *Agent or attorney in fact.* If a return is signed by an agent or attorney in fact, the signature shall be preceded by the name of the principal and followed by the title of the agent or attorney in fact. A return signed by a person as agent will not be accepted unless there is filed, with the ATF office with which the return is required to be filed, a power of attorney authorizing the agent to perform the act.

(4) *Perjury statement.* ATF Forms 5630.5 shall contain or be verified by a written declaration that the return has been executed under the penalties of perjury.

(26 U.S.C. 5142, 6061, 6065, 6151, 7011)

§ 270.34 Employer identification number.

(a) *Requirement.* The employer identification number (defined in 26 CFR 301.7701–12) of the taxpayer who has been assigned such a number shall be shown on each special tax return, including amended returns, filed under this subpart. Failure of the taxpayer to include the employer identification number may result in the imposition of the penalty specified in § 70.105 of this chapter.

(b) *Application for employer identification number.* Each taxpayer who files a special tax return, who has not already been assigned an employer identification number, shall file IRS Form SS–4 to apply for one. The taxpayer shall apply for and be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file a special tax return. The employer identification number shall be applied for no later than 7 days after the filing of the taxpayer's first special tax return. IRS Form SS–4 may be obtained from the director of an IRS service center or from any IRS district director.

(c) *Preparation and filing of IRS Form SS–4.* The taxpayer shall prepare and file IRS Form SS–4, together with any supplementary statement, in accordance with the instructions on the form or issued in respect to it.

(26 U.S.C. 6109)

§ 270.35 Issuance, distribution, and examination of special tax stamps.

(a) *Issuance of special tax stamps.* Upon filing a properly executed return on ATF Form 5630.5 together with the full remittance, the taxpayer will be issued an appropriately designated special tax stamp. If the return covers multiple locations, the taxpayer will be issued one appropriately designated stamp for each location listed on the attachment required by § 270.33(c)(2), but showing, as to name and address, only the name of the taxpayer and the address of the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer).

(b) *Distribution of special tax stamps for multiple locations.* On receipt of the special tax stamps, the taxpayer shall verify that there is one stamp for each location listed on the attachment to ATF Form 5630.5. The taxpayer shall designate one stamp for each location and type on each stamp the address of the business conducted at the location for which that stamp is designated. The taxpayer shall then forward each stamp to the place of business designated on the stamp.

(c) *Examination of special tax stamps.* All stamps denoting payment of special tax shall be kept available for inspection by ATF officers, at the location for which designated, during business hours.

(26 U.S.C. 5146, 6806)

§ 270.36 Changes in special tax stamps.

(a) *Change in name.* If there is a change in the corporate or firm name, or in the trade name, as shown on ATF Form 5630.5, the manufacturer shall file an amended special tax return as soon as practicable after the change, covering the new corporate or firm name, or trade names. No new special tax is required to be paid. The manufacturer shall attach the special tax stamp for endorsement of the change in name.

(b) *Change in proprietorship*—(1) *General.* If there is a change in the proprietorship of a tobacco factory, the successor shall pay a new special tax and obtain the required special tax stamps.

(2) *Exemption for certain successors.* Persons having the right of succession provided for in paragraph (c) of this section may carry on the business for the remainder of the period for which the special tax was paid, without paying a new special tax, if within 30 days after the date on which the successor begins to carry on the business, the successor files a special tax return on Form 5630.5 with ATF, which shows the basis of succession. A person who is a successor to a business for which special tax has been paid and who fails to register the succession is liable for special tax computed from the first day of the calendar month in which he or she began to carry on the business.

(c) *Persons having right of succession.* Under the conditions indicated in paragraph (b)(2) of this section, the right of succession will pass to certain persons in the following cases:

(1) *Death.* The widowed spouse or child, or executor, administrator, or other legal representative of the taxpayer;

(2) *Succession of spouse.* A husband or wife succeeding to the business of his or her spouse (living);

(3) *Insolvency.* A receiver or trustee in bankruptcy, or an assignee for benefit of creditors;

(4) *Withdrawal from firm.* The partner or partners remaining after death or withdrawal of a member.

(d) *Change in location.* If there is a change in location of a taxable place of business, the manufacturer shall, within 30 days after the change, file with ATF an amended special tax return covering the new location. The manufacturer shall attach the special tax stamp or stamps, for endorsement of the change in location. No new special tax is required to be paid. However, if the manufacturer does not file the amended return within 30 days, the manufacturer is required to pay a new special tax and obtain a new special tax stamp.

(26 U.S.C. 5143, 7011)

PART 285—MANUFACTURE OF CIGARETTE PAPERS AND TUBES

Para. 89. The authority citation for Part 285 is revised to read as follows:

Authority: 26 U.S.C. 5142, 5143, 5146, 5701, 5703–5705, 5711, 5721–5723, 5731, 5741, 5751, 5753, 5761–5763, 6061, 6065, 6109, 6302, 6402, 6404, 6676, 6806, 7011, 7212, 7325, 7342, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Para. 90. The table of sections is amended to add Subpart Ca immediately following Subpart C to read as follows:

* * * * *

Subpart Ca—Special (Occupational) Taxes

Sec.

* * * * *

Para. 91. Subpart Ca is added immediately following the regulations in Subpart C to read as follows:

Subpart Ca—Special (Occupational) Tax

§ 285.30b Liability for special tax.

(a) *Manufacturer of cigarette papers and tubes.* Every manufacturer of cigarette papers and tubes shall pay a special (occupational) tax at a rate specified by § 285.30c of this part. The tax shall be paid on or before the date of commencing the business of manufacturing cigarette papers and tubes, and thereafter every year on or before July 1. On commencing business, the tax shall be computed from the first day of the month in which liability is incurred, through the following June 30. Thereafter, the tax shall be computed for the entire year (July 1 through June 30).

(b) *Transition rule.* For purposes of paragraph (a) of this section, a proprietor engaged in the business of manufacturing cigarette papers and tubes on January 1, 1988, shall be treated as having commenced business on that date. The special tax imposed by this transition rule shall cover the period January 1, 1988, through June 30, 1988, and shall be paid on or before April 1, 1988.

(c) *Each place of business taxable.* A manufacturer of cigarette papers and tubes incurs special tax liability at each place of business in which an occupation subject to special tax is conducted. A place of business means the entire office, plant or area of the business in any one location under the same proprietorship. Passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises are not sufficient separation to require additional special tax, if the divisions of the premises are otherwise contiguous.

(26 U.S.C. 5143, 5731)

§ 285.30c Rate of special tax.

(a) *General.* Title 26 U.S.C. 5731(a)(2) imposes a special tax of $1,000 per year on every manufacturer of cigarette papers and tubes.

(b) *Reduced rate for small proprietors.* Title 26 U.S.C. 5731(b) provides for a reduced rate of $500 per year with respect to any manufacturer of cigarette papers and tubes whose gross receipts (for the most recent taxable year ending before the first day of the taxable period to which the special tax imposed by § 285.30b relates) are less than $500,000. The "taxable year" to be used for determining gross receipts is the taxpayer's income tax year. All gross receipts of the taxpayer shall be included, not just the gross receipts of the business subject to special tax. Proprietors of new businesses that have not yet begun a taxable year, as well as proprietors of existing businesses that have not yet ended a taxable year, who commence a new activity subject to special tax, qualify for the reduced special (occupational) tax rate, unless the business is a member of a "controlled group"; in that case, the rules of paragraph (c) of this section shall apply.

(c) *Controlled group.* All persons treated as one taxpayer under 26 U.S.C. 5061(e)(3) shall be treated as one taxpayer for the purpose of determining gross receipts under paragraph (b) of this section. "Controlled group" means a controlled group of corporations, as defined in 26 U.S.C. 1563 and implementing regulations in 26 CFR 1.1563–1 through 1.1563–4, except that the words "at least 80 percent" shall be replaced by the words "more than 50 percent" in each place they appear in subsection (a) of 26 U.S.C. 1563, as well as in the implementing regulations. Also, the rules for a "controlled group of corporations" apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50% control over a group consisting of corporations and one, or more, partnerships and/or sole proprietorships, all of the members of the controlled group are one taxpayer for the purpose of this section.

(d) *Short taxable year.* Gross receipts for any taxable year of less than 12 months shall be annualized by multiplying the gross receipts for the short period by 12 and dividing the result by the number of months in the short period as required by 26 U.S.C. 448(c)(3).

(e) *Returns and allowances.* Gross receipts for any taxable year shall be reduced by returns and allowances made during such year under 26 U.S.C. 448(c)(3).

(26 U.S.C. 448, 5061, 5731)

§ 285.30d Special tax returns.

(a) *General.* Special tax shall be paid by return. The prescribed return is ATF Form 5630.5, Special Tax Registration and Return. Special tax returns, with payment of tax, shall be filed with ATF in accordance with instructions on the form.

(b) *Preparation of ATF Form 5630.5.* All of the information called for on Form 5630.5 shall be provided, including:

(1) The true name of the taxpayer.

(2) The trade name(s) (if any) of the business(es) subject to special tax.

(3) The employer identification number (see paragraph (e) of this section).

(4) The exact location of the place of business, by name and number of building or street, or if these do not exist, by some description in addition to the post office address. In the case of one return for two or more locations, the address to be shown shall be the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer).

(5) The class(es) of special tax to which the taxpayer is subject.

(6) Ownership and control information: That is, the name, position, and residence address of every owner of the business and of every person having power to control its management and policies with respect to the activity subject to special tax. "Owner of the business" shall include every partner, if the taxpayer is a partnership, and every person owning 10% or more of its stock, if the taxpayer is a corporation. However, the ownership and control information required by this paragraph need not be stated if the same information has been previously provided to ATF in connection with a permit application, and if the information previously provided is still current.

(c) *Multiple locations and/or classes of tax.* A taxpayer subject to special tax for the same period at more than one location or for more than one class of tax shall—

(1) File one special tax return, ATF Form 5630.5, with payment of tax, to cover all such locations and classes of tax; and

(2) Prepare, in duplicate, a list identified with the taxpayer's name, address (as shown on ATF Form 5630.5), employer identification number, and period covered by the return. The list shall show, by States, the name, address, and tax class of each location for which special tax is being paid. The original of the list shall be filed with ATF in accordance with instructions on the return, and the copy shall be retained at the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer) for the period specified in § 285.31 of this part.

(d) *Signing of ATF Forms 5630.5*—(1) *Ordinary returns.* The return of an individual proprietor shall be signed by the individual. The return of a partnership shall be signed by a general partner. The return of a corporation shall be signed by any officer. In each case, the person signing the return shall designate his or her capacity as "individual owner," "member of firm," or, in the case of a corporation, the title of the officer.

(2) *Fiduciaries.* Receivers, trustees, assignees, executors, administrators, and other legal representatives who continue the business of a bankrupt, insolvent, deceased person, etc., shall indicate the fiduciary capacity in which they act.

(3) *Agent or attorney in fact.* If a return is signed by an agent or attorney

in fact, the signature shall be preceded by the name of the principal and followed by the title of the agent or attorney in fact. A return signed by a person as agent will not be accepted unless there is filed, with the ATF office with which the return is required to be filed, a power of attorney authorizing the agent to perform the act.

(4) *Perjury statement.* ATF Forms 5630.5 shall contain or be verified by a written declaration that the return has been executed under the penalties of perjury.

(e) *Employer identification number.*—(1) *Requirement.* The employer identification number (defined in 26 CFR 301.7701-12) of the taxpayer who has been assigned such a number shall be shown on each special tax return, including amended returns, filed under this subpart. Failure of the taxpayer to include the employer identification number may result in the imposition of the penalty specified in § 70.105 of this chapter.

(2) *Application for employer identification number on IRS Form SS-4.* Each taxpayer who files a special tax return, who has not already been assigned an employer identification number, shall file IRS Form SS-4 to apply for one in accordance with the provisions in §§ 285.30 and 285.30a.

(26 U.S.C. 5142, 6061, 6065, 6109, 6151, 7011)

§ 285.30e Issuance, distribution, and examination of special tax stamps.

(a) *Issuance of special tax stamps.* Upon filing a properly executed return on ATF Form 5630.5 together with the full remittance, the taxpayer will be issued an appropriately designated special tax stamp. If the return covers multiple locations, the taxpayer will be issued one appropriately designated stamp for each location listed on the attachment required by § 285.30c(d)(2), but showing, as to name and address, only the name of the taxpayer and the address of the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer).

(b) *Distribution of special tax stamps for multiple locations.* On receipt of the special tax stamps, the taxpayer shall verify that there is one stamp for each location listed on the attachment to AFT Form 5630.5. The taxpayer shall designate one stamp for each location and type on each stamp the address of the business conducted at the location for which that stamp is designated. The taxpayer shall then forward each stamp to the place of business designated on the stamp.

(c) *Examination of special tax stamps.* All stamps denoting payment of special tax shall be kept available for inspection by ATF officers, at the location for which designated, during business hours.

(26 U.S.C. 5142, 5146, 6806)

§ 285.30f Changes in special tax stamps.

(a) *Change in name.* If there is a change in the corporate or firm name, or in the trade name, as shown on ATF Form 5630.5, the manufacturer shall file an amended special tax return as soon as practicable after the change, covering the new corporate or firm name, or trade names. No new special tax is required to be paid. The manufacturer shall attach the special tax stamp for endorsement of the change in name.

(b) *Change in proprietorship*—(1) *General.* If there is a change in the proprietorship of a cigarette papers and tubes factory, the successor shall pay a new special tax and obtain the required special tax stamps.

(2) *Exemption for certain successors.* Persons having the right of succession provided for in paragraph (c) of this section may carry on the business for the remainder of the period for which the special tax was paid, without paying a new special tax, if within 30 days after the date on which the successor begins to carry on the business, the successor files a special tax return on ATF Form 5630.5 with ATF, which shows the basis of succession. A person who is a successor to a business for which special tax has been paid and who fails to register the succession is liable for special tax computed from the first day of the calendar month in which he or she began to carry on the business.

(c) *Persons having right of succession.* Under the conditions indicated in paragraph (b)(2) of this section, the right of succession will pass to certain persons in the following cases:

(1) *Death.* The widowed spouse or child, or executor, administrator, or other legal representative of the taxpayer;

(2) *Succession of spouse.* A husband or wife succeeding to the business of his or her spouse (living);

(3) *Insolvency.* A receiver or trustee in bankruptcy, or an assignee for benefit of creditors;

(4) *Withdrawal from firm.* The partner or partners remaining after death or withdrawal of a member.

(d) *Change in location.* If there is a change in location of a taxable place of business, the manufacturer shall within 30 days after the change, file with ATF an amended special tax return covering the new location. The manufacturer shall attach the special tax stamp or stamps for endorsement of the change in location. No new special tax is required to be paid. However, if the manufacturer does not file the amended return within 30 days, the manufacturer is required to pay a new special tax and obtain a new special tax stamp.

(26 U.S.C. 5143, 7011)

PART 290—EXPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, OR WITH DRAWBACK OF TAX

Para. 92. The authority citation for Part 290 is revised to read as follows:

Authority: 26 U.S.C. 5142, 5143, 5146, 5701, 5703-5705, 5711-5713, 5721-5723, 5731, 5741, 5751, 6061, 6065, 6151, 6402, 6404, 6806, 7011, 7212, 7342, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

Para. 93. The table of sections for Part 290 is amended to add Subpart Ba immediately following Subpart B to read as follows:

* * * * *

Subpart Ba—Special (Occupational) Taxes

Sec.

* * * * *

Para. 94. Subpart Ba is added immediately following the regulations in Subpart B to read as follows:

Subpart Ba—Special (Occupational) Taxes

§ 290.31 Liability for special tax.

(a) *Export warehouse proprietor.* Every export warehouse proprietor shall pay a special (occupational) tax at a rate specified by § 290.32. The tax shall be paid on or before the date of commencing the business of an export warehouseman, and thereafter every year on or before July 1. On commencing business, the tax shall be computed from the first day of the month in which liability is incurred, through the following June 30. Thereafter, the tax shall be computed for the entire year (July 1 through June 30).

(b) *Transition rule.* For purposes of paragraph (a) of this section, a proprietor engaged in the business of an export warehouseman on January 1, 1988, shall be treated as having commenced business on that date. The special tax imposed by this transition rule shall cover the period January 1, 1988, through June 30, 1988, and shall be paid on or before April 1, 1988.

(c) *Each place of business taxable.* An export warehouse proprietor under this part incurs special tax liability at each place of business in which an occupation subject to special tax is conducted. A place of business means the entire office, plant or area of the business in any one location under the same proprietorship. Passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises are not sufficient separation to require additional special tax, if the divisions of the premises are otherwise contiguous.

(26 U.S.C. 5143, 5731)

§ 290.32 Rate of special tax.

(a) *General.* Title 26 U.S.C. 5731(a)(3) imposes a special tax of $1,000 per year on every export warehouse proprietor.

(b) *Reduced rate for small proprietors.* Title 26 U.S.C. 5731(b) provides for a reduced rate of $500 per year with respect to any export warehouse proprietor whose gross receipts (for the most recent taxable year ending before the first day of the taxable period to which the special tax imposed by § 290.31 relates) are less than $500,000. The "taxable year" to be used for determining gross receipts is the taxpayer's income tax year. All gross receipts of the taxpayer shall be included, not just the gross receipts of the business subject to special tax. Proprietors of new businesses that have not yet begun a taxable year, as well as proprietors of existing businesses that have not yet ended a taxable year, who commence a new activity subject to special tax, qualify for the reduced special (occupational) tax rate, unless the business is a member of a "controlled group"; in that case, the rules of paragraph (c) of this section shall apply.

(c) *Controlled group.* All persons treated as one taxpayer under 26 U.S.C. 5061(e)(3) shall be treated as one taxpayer for the purpose of determining gross receipts under paragraph (b) of this section. "Controlled group" means a controlled group of corporations, as defined in 26 U.S.C. 1563 and implementing regulations in 26 CFR 1.1563-1 through 1.1563-4, except that the words "at least 80 percent" shall be replaced by the words "more than 50 percent" in each place they appear in subsection (a) of 26 U.S.C. 1563, as well as in the implementing regulations. Also, the rules for a "controlled group of corporations" apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50% control over a group consisting of corporations and one, or more, partnerships and/or sole proprietorships, all of the members of the controlled group are one taxpayer for the purpose of this section.

(d) *Short taxable year.* Gross receipts for any taxable year of less than 12 months shall be annualized by multiplying the gross receipts for the short period by 12 and dividing the result by the number of months in the short period as required by 26 U.S.C. 448(c)(3).

(e) *Returns and allowances.* Gross receipts for any taxable year shall be reduced by returns and allowances made during such year under 26 U.S.C. 448(c)(3).

(26 U.S.C. 448, 5061, 5731)

§ 290.33 Special tax returns.

(a) *General.* Special tax shall be paid by return. The prescribed return is ATF Form 5630.5, Special Tax Registration and Return. Special tax returns, with payment of tax, shall be filed with ATF in accordance with instructions on the form.

(b) *Preparation of ATF Form 5630.5.* All of the information called for on Form 5630.5 shall be provided, including:

(1) The true name of the taxpayer.

(2) The trade name(s) (if any) of the business(es) subject to special tax.

(3) The employer identification number (see § 290.34).

(4) The exact location of the place of business, by name and number of building or street, or if these do not exist, by some description in addition to the post office address. In the case of one return for two or more locations, the address to be shown shall be the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer).

(5) The class(es) of special tax to which the taxpayer is subject.

(6) Ownership and control information: that is, the name, position, and residence address of every owner of the business and of every person having power to control its management and policies with respect to the activity subject to special tax. "Owner of the business" shall include every partner, if the taxpayer is a partnership, and every person owning 10% or more of its stock, if the taxpayer is a corporation. However, the ownership and control information required by this paragraph need not be stated if the same information has been previously provided to ATF in connection with a permit application, and if the information previously provided is still current.

(c) *Multiple locations and/or classes of tax.* A taxpayer subject to special tax for the same period at more than one location or for more than one class of tax shall—

(1) File one special tax return, ATF Form 5630.5, with payment of tax, to cover all such locations and classes of tax; and

(2) Prepare, in duplicate, a list identified with the taxpayer's name, address (as shown on ATF Form 5630.5), employer identification number, and period covered by the return. The list shall show, by States, the name, address, and tax class of each location for which special tax is being paid. The original of the list shall be filed with ATF in accordance with instructions on the return, and the copy shall be retained at the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer) for the period specified in § 290.142.

(d) *Signing of ATF Forms 5630.5*—(1) *Ordinary returns.* The return of an individual proprietor shall be signed by the individual. The return of a partnership shall be signed by a general partner. The return of a corporation shall be signed by an officer. In each case, the person signing the return shall designate his or her capacity as "individual owner," "member of firm," or, in the case of a corporation, the title of the officer.

(2) *Fiduciaries.* Receivers, trustees, assignees, executors, administrators, and other legal representatives who continue the business of a bankrupt, insolvent, deceased person, etc., shall indicate the fiduciary capacity in which they act.

(3) *Agent or attorney in fact.* If a return is signed by an agent or attorney in fact, the signature shall be preceded by the name of the principal and followed by the title of the agent or attorney in fact. A return signed by a person as agent will not be accepted unless there is filed, with the ATF office with which the return is required to be filed, a power of attorney authorizing the agent to perform the act.

(4) *Perjury statement.* ATF Forms 5630.5 shall contain or be verified by a written declaration that the return has been executed under the penalties of perjury.

(26 U.S.C. 6061, 6065, 6151, 7011)

§ 290.34 Employer identification number.

(a) *Requirement.* The employer identification number (defined in 26 CFR 301.7701-12) of the taxpayer who has been assigned such a number shall be shown on each special tax return, including amended returns, filed under this subpart. Failure of the taxpayer to include the employer identification number may result in the imposition of the penalty specified in § 70.105 of this chapter.

(b) *Application for employer identification number.* Each taxpayer who files a special tax return, who has not already been assigned an employer identification number, shall file IRS Form SS-4 to apply for one. The taxpayer shall apply for and be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file a special tax return. The employer identification number shall be applied for no later than 7 days after the filing of the taxpayer's first special tax return. IRS Form SS-4 may be obtained from the director of an IRS service center or from any IRS district director.

(c) *Preparation and filing of IRS Form SS-4.* The taxpayer shall prepare and file IRS Form SS-4, together with any supplementary statement, in accordance with the instructions on the form or issued in respect to it.

(26 U.S.C. 6109)

§ 290.35 Issuance, distribution, and examination of special tax stamps.

(a) *Issuance of special tax stamps.* Upon filing a properly executed return on ATF Form 5630.5 together with the full remittance, the taxpayer will be issued an appropriately designated special tax stamp. If the return covers multiple locations, the taxpayer will be issued one appropriately designated stamp for each location listed on the attachment to ATF Form 5630.5 required by § 290.33(c)(2), but showing, as to name and address, only the name of the taxpayer and the address of the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer).

(b) *Distribution of special tax stamps for multiple locations.* On receipt of the special tax stamps, the taxpayer shall verify that there is one stamp for each location listed on the attachment to ATF Form 5630.5. The taxpayer shall designate one stamp for each location and type on each stamp the address of the business conducted at the location for which that stamp is designated. The taxpayer shall then forward each stamp to the place of business designated on the stamp.

(c) *Examination of special tax stamps.* All stamps denoting payment of special tax shall be kept available for inspection by ATF officers, at the location for which designated, during business hours.

(26 U.S.C. 5146, 6806)

§ 290.36 Changes in special tax stamps.

(a) *Change in name.* If there is a change in the corporate or firm name, or in the trade name, as shown on ATF Form 5630.5, the export warehouse proprietor shall file an amended special tax return as soon as practicable after the change, covering the new corporate or firm name, or trade names. No new special tax is required to be paid. The export warehouse proprietor shall attach the special tax stamp for endorsement of the change in name.

(b) *Change in proprietorship*—(1) *General.* If there is a change in the proprietorship of an export warehouse, the successor shall pay a new special tax and obtain the required special tax stamps.

(2) *Exemption for certain successors.* Persons having the right of succession provided for in paragraph (c) of this section may carry on the business for the remainder of the period for which the special tax was paid, without paying a new special tax, if within 30 days after the date on which the successor begins to carry on the business, the successor files a special tax return on ATF Form 5630.5 with ATF, which shows the basis of succession. A person who is a successor to a business for which special tax has been paid and who fails to register the succession is liable for special tax computed from the first day of the calendar month in which he or she began to carry on the business.

(c) *Persons having right of succession.* Under the conditions indicated in paragraph (b)(2) of this section, the right of succession will pass to certain persons in the following cases:

(1) *Death.* The widowed spouse or child, or executor, administrator or other legal representative of the taxpayer;

(2) *Succession of spouse.* A husband or wife succeeding to the business of his or her spouse (living);

(3) *Insolvency.* A receiver or trustee in bankruptcy, or an assignee for benefit of creditors;

(4) *Withdrawal from firm.* The partner or partners remaining after death or withdrawal of a member.

(d) *Change in location.* If there is a change in location of a taxable place of business, the export warehouse proprietor shall, within 30 days after the change, file with ATF an amended special tax return covering the new location. The export warehouse proprietor shall attach the special tax stamp or stamps, for endorsement of the change in location. No new special tax is required to be paid. However, if the export warehouse proprietor does not file the amended return within 30 days, he or she is required to pay a new special tax and obtain a new special tax stamp.

(26 U.S.C. 5143, 7011)

Signed: March 10, 1988.

Stephen E. Higgins,

Director.

Approved: April 7, 1988.

John P. Simpson,

Acting Assistant Secretary (Enforcement).

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