

§ 19.564

causes other than theft or unauthorized voluntary destruction can be established by the proprietor to the satisfaction of the appropriate TTB officer, the appropriate TTB officer may credit the tax on the loss so established against the tax on the original quantity.

(b) *Alternative method.* Where there is evidence satisfactory to the appropriate TTB officer that there has been access, other than as authorized by law, to the contents of packages entered for deposit on bonded premises, and the extent of such access is such as to evidence a lack of due diligence or a failure to employ necessary and effective controls on the part of the proprietor, the appropriate TTB officer may (in lieu of the procedure prescribed in paragraph (a) of this section) assess an amount equal to the tax on 5 proof gallons of spirits on each of the total number of such packages as determined by him.

(c) *Applicability to packages filled after entry.* The provisions of this section apply to spirits (including denatured spirits) which are filled into casks or packages as authorized by law, after entry and deposit on bonded premises, whether by recasking, filling from tanks, mingling, or otherwise. The quantity filled into those casks or packages is considered to be the original quantity for the purpose of this section in the case of loss from those casks or packages.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1320, as amended (26 U.S.C. 5006))

§ 19.564 Losses after tax determination.

(a) *Applicability.* Pursuant to a claim, the tax on spirits which are lost after determination of tax and before completion of physical removal from bonded premises, may be abated or remitted or refunded or credited without interest to the proprietor of the bonded premises where the loss occurred.

(b) *Conditions.* (1) Claims for losses under this section shall be filed in accordance with subpart C of this part.

(2) This section shall not apply if the tax would have been collectible by reason of 26 U.S.C. 5008(a)(1) if the loss oc-

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curred on bonded premises before determination of tax.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended (26 U.S.C. 5008))

SHORTAGES

§ 19.565 Shortages of bottled distilled spirits.

(a) *Determination of shortage.* Unexplained shortages shall be determined by comparing the spirits recorded to be on hand with the results of the quantitative determination of the spirits found to be on hand by actual count during the physical inventory required by § 19.402. When the recorded quantity is greater than the quantity determined by the physical inventory, the difference is an unexplained shortage. The records shall be adjusted to reflect the physical inventory.

(b) *Payment of tax on shortage.* An unexplained shortage of bottled distilled spirits shall be taxpaid:

(1) Immediately on a prepayment return on Form 5000.24, or

(2) On the return on Form 5000.24 for the return period during which the shortage was ascertained.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended (26 U.S.C. 5008))

[T.D. TTB-41, 71 FR 5602, Feb. 2, 2006]

Subpart R—Containers and Marks

CONTAINERS

§ 19.581 Authorized containers.

(a) *General.* Proprietors shall use for any purpose of containing, storing, transferring, conveying, removing, or withdrawing spirits or denatured spirits under this part only containers which are authorized by, or under the provisions of this part for such purpose, and a container so authorized will be deemed to be an approved container for such purpose. Except where stated otherwise, the provisions of part 20 of this chapter apply to containers used for containing, storing and shipping of articles, and the provisions of 27 CFR part 24 apply to containers used for storage or transfer of wine. Except for liquor bottles, this subpart does not regulate or prohibit the use on plant premises of any container for purposes

other than containing alcoholic substances.

(b) *Alternate containers.* In addition to the types of containers specifically authorized by this part for a particular purpose, a container of another type may be authorized for that purpose by the appropriate TTB officer on a finding by him that the use of such container will afford protection to the revenue equal to or greater than that afforded by the containers specifically authorized by this part, and that the use will not cause administrative difficulty. If another container is so authorized by the appropriate TTB officer, he shall prescribe the detail and manner in which such container shall be constructed, protected, and marked, consistent with the provisions of this part and the extent of such use. Similarly, where a container authorized for a particular purpose is required by this subpart to be made of specified materials, the appropriate TTB officer may authorize the use of containers made of other materials which he has found to be suitable for the intended purpose.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended, 1362, as amended, 1374, as amended (26 U.S.C. 5206, 5212, 5214, 5301); sec. 805, Pub. L. 96-39, 93 Stat. 279 (26 U.S.C. 5002); sec. 807, Pub. L. 96-39, 93 Stat. 285 (26 U.S.C. 5213))

[T.D. ATF-198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF-199, 50 FR 9162, Mar. 6, 1985; T.D. 372, 61 FR 20724, May 8, 1996]

§ 19.582 Spirits for nonindustrial use.

(a) *Determination of use.* Containers of spirits of a capacity of 1 gallon (3.875 liters) or less are considered to be for nonindustrial use, except for those which contain:

(1) Anhydrous alcohol; or

(2) Alcohol which may be withdrawn from bond free of tax.

(b) *Containers.* If not inconsistent with the provisions in 27 CFR part 5, spirits for nonindustrial use may be filled into:

(1) Packages, or

(2) Other containers which are filled during processing operations and contain not more than 10 gallons.

(c) *Bottles and labels.* The provisions of subpart S of this part govern the liquor bottles and labels to be used in bottling spirits for nonindustrial domestic use.

(d) *Cases.* Spirits for nonindustrial use in containers with a capacity of 1 gallon or less shall be placed in cases which afford reasonable protection against breakage. Such cases shall not be transferred in bond.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended, 1374, as amended (26 U.S.C. 5206, 5212, 5301))

§ 19.583 Spirits for industrial use.

(a) *Containers.* (1) Denatured spirits may be filled into glass or metal containers of a capacity not greater than 10 gallons.

(2) Other spirits for industrial use may be filled into

(i) Containers of 1 gallon or less; or

(ii) Glass or metal containers of a capacity of 1 gallon but not greater than 10 gallons.

(b) *Encased containers.* Unlabeled containers holding from 1 to 10 gallons of denatured spirits and spirits of 190 degree proof or more for industrial use may be encased in wood, fiberboard, or similar material if:

(1) The cases are constructed so that the surface, including the opening, of the container is not exposed;

(2) Required marks are applied to an exterior surface of the case;

(3) The case is constructed so that the portion containing marks will remain attached to the inner container until all the contents have been removed; and

(4) A statement reading "Do not remove inner container until emptied" or of similar meaning is placed on the portion of the case bearing the marks.

(c) *Cases.* Except for encased containers, containers for denatured spirits and spirits for industrial use of a capacity of 1 gallon or less shall be placed in cases which afford reasonable protection against breakage.

(d) *Articles.* Articles shall be packaged and labeled in accordance with the provisions of 27 CFR part 20.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended, 1374, as amended (26 U.S.C. 5206, 5301))

[T.D. ATF-198, 50 FR 8464, Mar. 1, 1985, as amended by T.D. ATF-199, 50 FR 9162, Mar. 6, 1985; T.D. ATF-206, 50 FR 23952, June 7, 1985]