

§ 70.414

27 CFR Ch. I (4–1–10 Edition)

(d) *Claims for allowance, credit, or relief.* A qualified permittee, manufacturer, or proprietor may, subject to the conditions in the appropriate regulations, file claim on Form 5620.8 for allowance of loss, credit of tax, or relief from tax liability, as applicable, on

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

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

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

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

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

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

(Approved by the Office of Management and Budget under control number 1512-0141)

[T.D. ATF-251, 52 FR 19325, May 22, 1987. Redesignated and amended by T.D. ATF-301, 55 FR 47606, 47653, Nov. 14, 1990; T.D. ATF-450, 66 FR 29028, May 29, 2001]

§ 70.414 Preparation and filing of claims.

(a) *Distilled spirits at distilled spirits plants.* Procedural instructions in respect of claims for remission, abatement, credit, or refund of tax on spirits (including denatured spirits) lost or destroyed on or lost in transit to, or on spirits returned to, the premises of a distilled spirits plant are contained in Part 19 of Title 27 CFR. It is not necessary to file a claim for credit of tax on taxpaid samples taken by appropriate TTB officers from distilled spirits plants, as the appropriate TTB officer will allow credit, without claim, for tax on such samples.

(b) *Specially denatured spirits.* Procedural instructions in respect of claims for allowance of loss on specially denatured spirits lost on the premises of a bonded dealer or user, or while in transit to such premises, are contained in part 20 of title 27 CFR.

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

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

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

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

(3) Credit or refund of tax paid on unmerchanted domestic wine returned to bond are contained in part 24 of title 27 CFR.

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

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

(1) Drawback of internal revenue tax on distilled spirits, wines, or beer for

export, use as supplies on certain vessels or aircraft, or deposit in a foreign-trade zone, or deposit of distilled spirits or wine in a customs bonded warehouse, and

(2) Remission of tax on distilled spirits, specially denatured spirits, wines, or beer, withdrawn without payment or free of tax and lost during transportation to the port of export, customs bonded warehouse (distilled spirits and wine only), manufacturing bonded warehouse, vessel or aircraft, or foreign-trade zone, as applicable, are contained in part 28 of title 27 CFR. Procedural instructions as to claims respecting export with benefit of drawback of tax on domestic distilled spirits products containing spirits from Puerto Rico or the Virgin Islands are contained in parts 19 and 28 of title 27 CFR.

(g) *Miscellaneous*. Procedural instructions are contained in 27 CFR Part 70, subparts F and G in respect of claims for—

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

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

(h) [Reserved]

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

(j) *Distilled spirits used in nonbeverage products*. Procedural instructions in respect of claims for drawback of excise tax, submitted by persons using dis-

tilled spirits in the manufacture of medicines, medicinal preparations, food products, flavors, flavoring extracts, or perfume, which are unfit for beverage purposes, are contained in part 17 of title 27 CFR.

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

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

[T.D. ATF-251, 52 FR 19325, May 22, 1987, as amended by T.D. ATF-299, 55 FR 24989, June 19, 1990. Redesignated and amended by T.D. ATF-301, 55 FR 47606, 47654, Nov. 14, 1990; T.D. ATF-376, 61 FR 31031, June 19, 1996; T.D. ATF-379, 61 FR 31426, June 20, 1996; T.D. ATF-450, 66 FR 29028, May 29, 2001; T.D. TTB-8, 69 FR 3830, Jan. 27, 2004; T.D. TTB-25, 70 FR 19883, Apr. 15, 2005]

EFFECTIVE DATE NOTE: By T.D. TTB-79, 74 FR 37424, July 28, 2009, § 70.414 was amended by removing and reserving paragraph (h); in paragraph (j), by removing the words “and claims for refund of special (occupational) tax.”; and by removing the OMB justification statement at the end of the section, effective July 28, 2009 through July 30, 2012.

§ 70.415 Offers in compromise.

Procedure in the case of offers in compromise of liabilities under 26 U.S.C. chapter 51 and of penalties for