

collections of information, including suggestions for reducing the burden, to David Rostker, Office of Management and Budget (OMB), by email to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or by fax to (202) 395-7285; and to the Office of Administration, Bureau of Industry and Security, Department of Commerce, 14th and Pennsylvania Avenue, NW., Room 6883, Washington, DC 20230.

3. This rule does not contain policies with Federalism implications as that term is defined under E.O. 13132.

4. The Department finds that there is good cause under 5 U.S.C. 553 (b)(3) to waive the provisions of the Administrative Procedure Act requiring prior notice and the opportunity for public comment because it is unnecessary. This regulation deletes a redundant paragraph and redesignates the remaining paragraphs in one section for clarity; inserts material inadvertently omitted from previous rules in three places in the EAR; clarifies instructions for applying for authorization to transfer items subject to the EAR in-country; adds an alias for a listed entity on the Entity List; and removes references to two ECCNs that do not exist. The revisions made by this rule are administrative in nature and do not affect the rights and obligations of the public. Because these revisions are not substantive changes to the EAR, it is unnecessary to provide notice and opportunity for public comment. In addition, the 30-day delay in effectiveness required by U.S.C. 553(d) is not applicable because this rule is not a substantive rule. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Because notice of proposed rulemaking and opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

#### List of Subjects in 15 CFR Part 736

Exports.

- Accordingly, for the reasons set out in the preamble, 15 CFR part 736 is amended as follows:
- 1. The authority citation for part 736 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 2151 (note), Pub. L. 108-175; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p. 168; Notice of

November 4, 2004, 69 FR 64637, 3 CFR, 2004 Comp., p. 303; Notice of August 2, 2005, 70 FR 45273 (August 5, 2005).

#### SUPPLEMENT NO. 2 TO PART 736—[CORRECTED]

- 2. Supplement No. 2 to part 736, is amended in “Administrative Order Two” by:
  - a. Redesignating paragraphs (a)(2)(A) through (E) as paragraphs (a)(2)(i) through (v), respectively; and
  - b. Redesignating paragraphs (a)(3)(A) through (D) as paragraphs (a)(3)(i) through (iv), respectively.

Dated: October 20, 2005.

**Eileen Albanese,**

*Director, Office of Exporter Services.*

[FR Doc. 05-21351 Filed 10-28-05; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Alcohol and Tobacco Tax and Trade Bureau

#### 27 CFR Parts 17, 19, 24, 25, 26, 27, and 31

[T.D. TTB-36]

RIN 1513-AB04

#### Suspension of Special (Occupational) Tax (2004R-778P)

**AGENCY:** Alcohol and Tobacco Tax and Trade Bureau, Treasury.

**ACTION:** Temporary rule; Treasury decision.

**SUMMARY:** In this temporary rule, the Alcohol and Tobacco Tax and Trade Bureau amends its regulations relating to special (occupational) tax, to reflect a 3-year tax suspension effected by section 246 of the American Jobs Creation Act of 2004. Section 246 amends the Internal Revenue Code of 1986 to provide that, during the period from July 1, 2005, through June 30, 2008, the rate of special (occupational) tax on certain occupations will be zero. The occupations affected by the 3-year tax suspension are: Manufacturers of nonbeverage products who claim tax drawback; proprietors of distilled spirits plants, alcohol fuel plants, bonded and taxpaid wine premises, and breweries; and wholesale and retail dealers in distilled spirits, wine, and beer. The requirements to register annually and keep prescribed records remain in effect. The text of these temporary regulations serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

**DATES:** *Effective Date:* This temporary rule is effective as of July 1, 2005.

#### FOR FURTHER INFORMATION CONTACT:

Steve Simon, Alcohol and Tobacco Tax and Trade Bureau, Regulations and Rulings Division, Suite 200E, 1310 G Street, NW., Washington, DC 20220; telephone (202) 927-8210.

#### SUPPLEMENTARY INFORMATION:

##### Background

Various provisions within subtitle E of the Internal Revenue Code of 1986 (IRC) impose an annual tax on certain business occupations. This tax is referred to as the “special (occupational) tax” or more briefly as the “special tax.” In general, payment of this tax is a prerequisite for engaging in any of the covered occupations. The current annual rates of special (occupational) tax are as follows:

|  |        |
|--|--------|
| Manufacturer of Nonbeverage Products .....               | \$ 500 |
| Proprietor of Distilled Spirits Plant .....              | 1,000  |
| Proprietor of Alcohol Fuel Plant ....                    | 1,000  |
| Proprietor of Bonded Wine Cellar ..                      | 1,000  |
| Proprietor of Bonded Wine Warehouse ..                   | 1,000  |
| Proprietor of Taxpaid Wine Bottling House .....          | 1,000  |
| Brewer .....   | 1,000  |
| Wholesale Liquor Dealer or Beer Dealer .....             | 500    |
| Retail Liquor Dealer or Beer Dealer .....                | 250    |
| User of, or Dealer in, Specially Denatured Alcohol ..... | 250    |
| User of Tax-Free Alcohol .....                           | 250    |
| Manufacturer of Tobacco Products .....                   | 1,000  |
| Manufacturer of Cigarette Papers and Tubes .....         | 1,000  |
| Export Warehouse Proprietor .....                        | 1,000  |

Each tax year for payment of special (occupational) tax runs from July 1 through the following June 30. In addition, special tax returns, with payment of the appropriate tax, must be submitted before beginning a new business, and each year thereafter on or before July 1.

Some of the covered occupations are subject to a reduced rate for small entities. A small entity, engaging in an occupation subject to a basic rate of \$1,000 per year, is subject to a reduced rate of just \$500 per year. However, a small alcohol fuel plant is exempt from special tax. Educational institutions using small quantities of tax-free or specially denatured alcohol are also exempt from special tax.

Besides requiring payment of the annual tax, the IRC requires an annual registration of persons subject to special tax and imposes certain recordkeeping requirements. Further, liquor (distilled spirits, wine, and beer) dealers must purchase distilled spirits from (1) a wholesale liquor dealer who has paid special tax for the location where the

sale is consummated, (2) a wholesale dealer in liquors who is exempt, at the place where such purchase is made, from the payment of the tax, or (3) a person who is not subject to wholesale liquor dealer's special tax where the sale is consummated.

Current regulations relating to special (occupational) tax are contained in title 27 of the Code of Federal Regulations (27 CFR) and are administered by the Alcohol and Tobacco Tax and Trade Bureau (TTB). These regulations provide for a single form to be used both as a tax return and a registration. The form is TTB Form 5630.5, "Special Tax Registration and Return." Persons who complete this form and pay the appropriate tax are issued a "Special Tax Stamp," which functions as a receipt for payment of the tax and also provides evidence of registration. This tax stamp is not a license and does not authorize any activity that would be illegal under any other Federal or State law.

#### American Jobs Creation Act of 2004

On October 22, 2004, President Bush signed into law the American Jobs Creation Act of 2004 (the Act), Pub. L. 108-357, 118 Stat. 1418. Section 246 of the Act, entitled "Suspension of Occupational Taxes Relating to Distilled Spirits, Wine, and Beer," amended subpart G of part II of subchapter A of chapter 54 of the IRC by redesignating section 5148 as section 5149 and adding a new section 5148 (26 U.S.C. 5148) entitled "Suspension of Occupational Tax." New section 5148 provides that, during the 3-year period from July 1, 2005, through June 30, 2008, the rate of special (occupational) tax imposed under sections 5081, 5091, 5111, 5121, and 5131 will be zero.

The effect of new section 5148 is that the following occupations are not subject to payment of special (occupational) tax during the suspension period: Manufacturer of nonbeverage products, proprietor of distilled spirits plant, (including an alcohol fuel plant), proprietor of bonded wine cellar, proprietor of bonded wine warehouse, proprietor of taxpaid wine bottling house, brewer, wholesale liquor dealer or beer dealer, and retail liquor dealer or beer dealer.

On the other hand, the following occupations, which are not covered by the IRC sections listed in new section 5148, are not affected by the suspension and remain subject to the special (occupational) tax during the suspension period: User of or dealer in specially denatured alcohol, user of tax-free alcohol, manufacturer of tobacco products (that is, cigars, cigarettes,

smokeless tobacco, pipe tobacco, and roll-your-own tobacco), manufacturer of cigarette papers or tubes, and export warehouse proprietor (for the export of tobacco products, cigarette papers, or cigarette tubes).

Although the tax rate for the occupations affected by the suspension will be zero during the suspension period, new section 5148 further provides that persons engaging in those occupations must still register annually and comply with applicable recordkeeping requirements. Finally, section 246 of the Act amended section 5117 of the IRC (26 U.S.C. 5117) by adding a new subsection (d) to provide that during the suspension period a dealer may purchase distilled spirits, for resale, only from persons required to keep records as a wholesale liquor dealer, except as otherwise specifically provided by law or regulations.

#### Regulations Changes in General

In order to reflect the changes made by section 246 of the Act, this document generally amends the TTB regulations by adding the requirements that are applicable during the suspension period to the current regulatory provisions, which remain applicable at all times outside the suspension period. The regulatory amendments therefore refer to the fact that the suspension is for a fixed period with a beginning and ending date. Accordingly, provided that no further changes are made to the special (occupational) tax statutory provisions, the regulatory provisions that were in effect prior to the adoption of the changes made by section 246 of the Act will operate without the need for further regulatory changes upon termination of the suspension period.

TTB Form 5630.5, "Special Tax Registration and Return," will continue in use for registration purposes during the suspension period. All persons engaged in occupations currently subject to special tax must continue to register by completing and submitting this form annually during the suspension period. Persons in occupations not affected by the suspension must continue to pay the current rate of tax as well.

Because the primary purpose of the "Special Tax Stamp" is to serve as a receipt for payment of the tax, TTB has decided not to issue these stamps during the suspension period, except for those occupations that will remain subject to payment of a special (occupational) tax.

#### Specific Types of Regulatory Changes

Each regulation referring to an affected special tax liability is amended

in this document to refer as well to an obligation to register during the 3-year tax suspension period. Similarly, if a regulation prescribes the time for payment of a special tax, the regulation is amended to prescribe the same time for registration during the suspension period. Regulations affording exemptions from payment of special tax (such as the exemptions from liquor dealer tax on sales, by alcohol beverage manufacturers, of products stored on their manufacturing premises) are amended to add similar exemptions from registration during the tax suspension period.

Regulations providing a penalty for failure to file a special tax return or to pay special tax cannot simply be amended to provide the same penalties for failure to register during the tax suspension period, because the penalties described in those regulations are based on the amount of tax, which will become zero in the suspension period. This does not mean that no penalty exists for failure to register during the suspension period. Section 5603(b) of the IRC (26 U.S.C. 5603(b)) provides criminal penalties applicable to persons who are "required by this chapter \* \* \* or regulations issued pursuant thereto to keep or file any record, return, report, summary, transcript, or other document" and who neglect to do so. A penalty of "not more than \$1,000" or imprisonment for "not more than 1 year" or both may be imposed for each offense. Therefore, except in the case of part 17 of the TTB regulations as discussed below, regulations referring to a penalty for failure to file a special tax return are amended to refer to the penalty prescribed in section 5603(b), with respect to a failure to register during the tax suspension period.

While the regulations are not being amended to reflect other enforcement actions available to TTB in the event the required records are not maintained, TTB reminds holders of basic permits that these permits are conditioned on compliance with all Federal law relating to alcohol. The conditions include compliance with the internal revenue laws relating to alcohol, which include the requirement to register and/or maintain the required records.

The TTB regulations in 27 CFR part 17, which deal with manufacturers of nonbeverage products, require special treatment in several respects. For such manufacturers, payment of special tax is not a prerequisite for engaging in business, but is a prerequisite for claiming drawback of excise tax on distilled spirits used in their manufacturing processes. Accordingly,

their time limit for filing a tax return and paying special tax is set by the regulations as no later than completion of final action on the first claim for any tax year. Failure to comply with this time limit is a violation subject to a \$1,000 civil penalty prescribed by 26 U.S.C. 5134(c)(2). The same time limit and civil penalty will apply to registration during the suspension period. However, for changes of business location, and succession to business ownership by any of the statutorily privileged successors (such as children succeeding deceased parents, etc.), current regulations in 27 CFR 17.61 and 17.71 require payment of a new special tax if notice of the change is not submitted within 90 days. During the suspension period, when the rate of special tax is zero, the requirement for a new special tax is not applicable. Therefore, manufacturers changing location and successors assuming ownership may submit notice of the change, without penalty under 26 U.S.C. 5134(c)(2), at any time prior to completion of final action on the first claim after the change, or within 90 days of the change, whichever is later.

Certain changes are needed to reflect the fact that TTB will not issue special tax stamps for occupations whose tax rate is zero during the suspension period. Specifically, regulations promising issuance of special tax stamps or requiring persons to obtain such stamps are amended to indicate that no stamps will be issued during the suspension period. Regulations referring to the holding of a special tax stamp at a location are amended to refer, for purposes of the suspension period, to registration for that location. Regulations on changes of address, which refer to the address stated on the special tax stamp, are amended to refer, during the suspension period, to the same address as stated on the special tax return (TTB Form 5630.5). Regulations requiring submission of special tax stamps for endorsement of changes in name or address are amended to waive this requirement during the suspension period (nevertheless, such changes still must be registered by submission of a new special tax return). Lastly, the regulation in 27 CFR 31.125, which indirectly prohibits an activity (retailing of alcohol beverages on board a non-passenger train, vessel, or aircraft) by stating that no special tax stamp will be issued is amended to express the prohibition directly, so that it will be as meaningful during the suspension period as at other times. (Note: On April 15, 2005, part 194 of the TTB regulations (27 CFR part 194) was

recodified as part 31 (27 CFR part 31); see T.D. TTB-25, 70 FR 19880.)

The current law restricting purchases of distilled spirits by dealers is in 26 U.S.C. 5117, and the implementing regulations are contained in 27 CFR 31.211. Under the amendments made by section 246 of the Act, as described above, during the tax suspension period, section 5117 only authorizes such purchases from persons required to keep records as wholesale liquor dealers—except that limited retail dealers as defined in 26 U.S.C. 5122(c) will be permitted, as currently, to purchase distilled spirits from retail liquor dealers. In addition, amended section 5117 allows the Secretary of the Treasury to expand, by regulation, the categories of persons from whom such distilled spirits purchases may be made. Accordingly, this Treasury decision amends § 31.211 to provide that, during the suspension period, a dealer must purchase distilled spirits from (a) a wholesale dealer (including a State, a political subdivision of a State, the District of Columbia, and a distilled spirits plant) required to keep records as such under part 31, (b) a retail liquor store operated by a State, a political subdivision thereof, or the District of Columbia, or (c) a person not required to register as a wholesale liquor dealer under part 31. The current provision allowing limited retail dealers to purchase distilled spirits from retail liquor dealers is retained.

Finally, in sections or paragraphs where the full regulatory text is set forth in this document, the amendments made by this document include a few minor, nonsubstantive editorial changes, such as the correction of typographical errors.

### Public Participation

For submitting comments, please refer to the notice of proposed rulemaking on this subject published in the Proposed Rules section of this issue of the **Federal Register**.

### Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for temporary rules, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

### Executive Order 12866

It has been determined that this temporary rule is not a significant regulatory action as defined in E.O. 12866. Therefore, a regulatory assessment is not necessary.

### Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid Office of Management and Budget (OMB) control number. The collections of information contained in the regulations amended by this temporary rule have been previously reviewed and approved by OMB in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3504(h)) under control numbers 1513–0005, 1513–0088, 1513–0112, and 1513–0113. There is no new or revised collection of information imposed by this Treasury decision, and there is no change in the reporting or recordkeeping burden so no new control numbers are necessary and the previous control numbers will continue to be used.

### Inapplicability of Prior Notice and Comment and Delayed Effective Date Procedures

It has been determined that prior notice and comment procedures are not required pursuant to 5 U.S.C. 553(b)(A), and a delayed effective date is not required pursuant to 5 U.S.C. 553(d)(2).

### Drafting Information

The principal drafter of this document is Steve Simon of the Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau.

### List of Subjects

#### 27 CFR Part 17

Administrative practice and procedure, Claims, Cosmetics, Customs duties and inspection, Drugs, Excise taxes, Exports, Imports, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Spices and flavorings, Surety bonds, Virgin Islands.

#### 27 CFR Part 19

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations (Government agencies), Chemicals, Claims, 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 24

Administrative practice and procedure, Claims, Electronic funds

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, Vinegar, Warehouses, Wine.

#### 27 CFR Part 25

Beer, Claims, Electronic fund transfers, Excise taxes, Exports, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Surety bonds.

#### 27 CFR Part 26

Alcohol and alcoholic beverages, Caribbean Basin initiative, Claims, Customs duties and inspection, Electronic funds transfers, Excise taxes, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Surety bonds, Virgin Islands, Warehouses.

#### 27 CFR Part 27

Alcohol and alcoholic beverages, Beer, Cosmetics, Customs duties and inspection, Electronic funds transfers, Excise taxes, Imports, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Wine.

#### 27 CFR Part 31

Alcohol and alcoholic beverages, Beer, Claims, Excise taxes, Exports, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Wine.

#### Amendments to the Regulations

- For the reasons discussed in the preamble TTB amends 27 CFR parts 17, 19, 24, 25, 26, 27, and 31 as follows:

#### PART 17—DRAWBACK ON TAXPAID DISTILLED SPIRITS USED IN MANUFACTURING NONBEVERAGE PRODUCTS

- 1. The authority citation for part 17 is revised to read as follows:

**Authority:** 26 U.S.C. 5010, 5131–5134, 5143, 5146, 5148, 5206, 5273, 6011, 6065, 6091, 6109, 6151, 6402, 6511, 7011, 7213, 7652, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

- 2. Section 17.21 is amended by designating the existing text as paragraph (a), adding the heading “General.” to newly designated paragraph (a), removing the word “Each” at the beginning of the first sentence of newly designated paragraph (a) and adding, in its place, the words “Except as otherwise provided in paragraph (b) of this section, each”, and adding a new paragraph (b) to read as follows:

#### § 17.21 Payment of special tax.

\* \* \* \* \*

(b) *Suspension of tax.* During the period from July 1, 2005, through June 30, 2008, the rate of the tax described in paragraph (a) of this section is zero. Accordingly, payment of the tax is not a prerequisite for claiming drawback on spirits used during that period. However, the drawback claimant still must register by filing the special tax return on Form 5630.5 during the suspension period even though the amount of tax due is zero.

#### § 17.22 [Amended]

- 3. Section 17.22 is amended by adding at the end before the period the words “, except that the tax rate is zero during the suspension period described in § 17.21(b)”.

#### § 17.23 [Amended]

- 4. Section 17.23 is amended at the beginning by removing the word “A” and adding, in its place, the words “Subject to § 17.21(b), a”.
- 5. Section 17.24 is amended by designating the existing text as paragraph (a), adding the heading “General.” to newly designated paragraph (a), and adding a new paragraph (b) to read as follows:

#### § 17.24 Time for payment of special tax.

\* \* \* \* \*

(b) *Suspension of tax.* The rate of special tax is zero during the period from July 1, 2005, through June 30, 2008 (see § 17.21(b)). During this period, the registration requirement continues. The drawback claimant must register by filing a special tax return, Form 5630.5. The claimant may register without penalty under 26 U.S.C. 5134(c) at any time prior to completion of final action on the first claim submitted for each tax year.

#### § 17.31 [Amended]

- 6. Section 17.31 is amended by adding at the end of the first sentence before the period the words “, and the filing of a return is required for registration purposes even though no tax is due during the suspension period described in § 17.21(b)”.
- 7. Section 17.32 is amended by adding at the end of paragraph (a)(5) before the period the words “or to which the return relates during the suspension period described in § 17.21(b)” and revising paragraph (b) to read as follows:

#### § 17.32 Completion of ATF Form 5630.5.

\* \* \* \* \*

(b) *Multiple locations.* A taxpayer subject to special tax, or required to register during the suspension period

described in § 17.21(b), for the same period at more than one location or for more than one class of tax shall—

(1) File one special tax return, Form 5630.5, with payment of applicable 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 the 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, or for which registration is being made during the suspension period described in § 17.21(b). The original of the list shall be filed 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 § 17.170.

\* \* \* \* \*

- 8. Section 17.51 is amended:

- a. By designating the existing text as paragraph (a);
- b. In the first sentence of newly designated paragraph (a), by removing the word “Each” and adding, in its place, the words “Except as otherwise provided in paragraph (b) of this section, each”;
- c. Also in the first sentence of newly designated paragraph (a), by adding after the words “payment in the” the word “applicable”; and
- d. By adding a new paragraph (b) to read as follows:

#### § 17.51 Issuance of stamps.

\* \* \* \* \*

(b) During the suspension period described in § 17.21(b) when registration is required but no tax is due, a special tax stamp will not be issued.

- 9. Section § 17.61 is revised to read as follows:

#### § 17.61 General.

A manufacturer who, during a tax year for which a special tax return has been filed with payment of any tax due, moves its place of manufacture to a place other than that specified on the return, shall register the change, by executing a new return on Form 5630.5, designated as “Amended Return.” This Amended Return shall set forth the time of the move and the address of the new location. If a special tax stamp was issued for the former location, the taxpayer shall also submit the special tax stamp for endorsement of the change in location. In general, the taxpayer must submit the new return and the

special tax stamp within 90 days after the move to the new premises. However, if the move occurs during the suspension period described in § 17.21(b) when no tax was due and no special tax stamp was issued, the taxpayer may submit the new return alone without penalty at any time prior to completion of final action on the first claim covering use of spirits at the new premises, or within 90 days of the move, whichever is later.

(Title II, sec. 201, Pub. L. 85-859, 72 Stat. 1374 (26 U.S.C. 5143))

#### **§ 17.62 [Amended]**

- 10. Section 17.62 is amended at the beginning by removing the word “A” and adding, in its place, the words “Except in the case of claims covering spirits used during the suspension period described in § 17.21(b) when the special tax rate is zero, a”.
- 11. Section 17.71 is amended by designating the existing text as paragraph (a) and revising the first sentence of newly designated paragraph (a) and adding a new paragraph (b) to read as follows:

#### **§ 17.71 General.**

(a) Subject to paragraph (b) of this section, certain persons may qualify for succession to the same privileges granted by law to the taxpayer, to cover the remainder of the tax year for which the special tax was paid, or for which registration was made during the suspension period described in § 17.21(b). \* \* \*

(\* \* \* \* \*)

(b) With respect to spirits used during the suspension period described in § 17.21(b), the successor or successors must file the return prior to completion of final action on the claim(s) covering such spirits, or within 90 days of the change in control, whichever is later.

#### **§ 17.73 [Amended]**

- 12. Section 17.73 is amended at the beginning by removing the word “A” and adding, in its place, the words “Except in the case of claims covering spirits used during the suspension period described in § 17.21(b) when the special tax rate is zero, a”.
- 13. Section 17.75 is revised to read as follows:

#### **§ 17.75 Formation of partnership or corporation.**

If one or more persons who have filed a special tax return and paid any tax due form a partnership or corporation, as a separate legal entity, to take over the business of manufacturing nonbeverage products, the new firm or

corporation shall file a new special tax return and pay a new special tax in order to be eligible to receive drawback. In the case of claims covering spirits used during the suspension period described in § 17.21(b), the rate of special tax is zero.

- 14. Section 17.76 is revised to read as follows:

#### **§ 17.76 Addition or withdrawal of partners.**

(a) *General partners.* When a business formed as a partnership, subject to the filing of a special tax return, admits one or more new general partners, the new partnership shall file a new special tax return and pay a new special tax in order to be eligible to receive drawback (in the case of claims covering spirits used during the suspension period described in § 17.21(b), the rate of special tax is zero). Withdrawal of general partners is covered by § 17.72(d).

(b) *Limited partners.* Changes in the membership of a limited partnership requiring amendment of the certificate but not dissolution of the partnership are not changes that incur liability to additional special tax or that require the filing of a new special tax return.

- 15. Section 17.77 is revised to read as follows:

#### **§ 17.77 Reincorporation.**

When a new corporation is formed to take over and conduct the business of one or more corporations that have filed a special tax return and paid any tax due, the new corporation must file a new special tax return, pay special tax, and obtain a special tax stamp in its own name. However, in the case of spirits used during the suspension period described in § 17.21(b) when no tax is due and no stamp is issued, only the filing of a new special tax return is required.

#### **§ 17.81 [Amended]**

- 16. Section 17.81 is amended by removing the words “paid special tax” and adding, in their place, the words “filed a special tax return and paid any tax due” and by adding, after the words “required to”, the words “file a new special tax return or”.

#### **§ 17.82 [Amended]**

- 17. Section 17.82 is amended by removing the word “is” and adding, in its place, the words “return and tax payment are”.

#### **§ 17.83 [Amended]**

- 18. Section 17.83 is amended by removing the word “is” and adding, in its place, the words “return and tax payment are”.

## **PART 19—DISTILLED SPIRITS PLANTS**

- 19. 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, 5010, 5041, 5061, 5062, 5066, 5081, 5101, 5111–5113, 5142, 5143, 5146, 5148, 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.

- 20. Section 19.49 is amended by adding a new paragraph (a)(3) and revising paragraphs (b)(2) and (c) to read as follows:

#### **§ 19.49 Liability for special tax.**

(a) \* \* \*

(3) *Suspension of tax.* During the period from July 1, 2005, through June 30, 2008, the rate of the tax described in paragraph (a)(1) of this section is zero. However, each proprietor still must register by filing the special tax return on Form 5630.5 during this suspension period even though the amount of tax due is zero. During the suspension period, as at other times, the special tax return is due on or before commencement of business and on or before July 1 of each year thereafter.

(b) \* \* \*

(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, or to register during the suspension period described in paragraph (a)(3) of this section, 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, or from dealer’s registration, 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 or registration; 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, or an obligation to register during the suspension period described in paragraph (a)(3) of this section, 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.

(2) *Exception for contiguous areas.* A proprietor of a distilled spirits plant does not incur additional special tax liability, or an obligation to register during the suspension period described in paragraph (a)(3) of this section, 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.

\* \* \* \* \*

#### **§ 19.50 [Amended]**

- 21. Section 19.50 is amended:
  - a. In paragraph (a), by adding at the end the following new sentence: "However, under 26 U.S.C. 5148(a) the tax rate is zero during the suspension period described in § 19.49(a)(3)."; and
  - b. At the beginning of paragraph (b), by removing the word "Title" and adding, in its place, the words "Except during the suspension period described in § 19.49(a)(3) when the tax rate is zero, title".
- 22. Section 19.51 is amended by revising paragraphs (a), (b)(5), and (c) to read as follows:

#### **§ 19.51 Special tax returns.**

(a) *General.* Special tax shall be paid by return, and the filing of a return is required for registration purposes even though no tax is due during the suspension period described in § 19.49(a)(3). The prescribed return is Form 5630.5, Special Tax Registration and Return. Special tax returns, with payment of applicable tax, shall be filed in accordance with instructions on the form.

(b) \* \* \*

(5) The class(es) of special tax to which the taxpayer is subject or to which the return relates during the suspension period described in § 19.49(a)(3).

\* \* \* \* \*

(c) *Multiple locations and/or classes of tax.* A taxpayer subject to special tax, or required to register during the suspension period described in

§ 19.49(a)(3), for the same period at more than one location or for more than one class of tax shall—

(1) File one special tax return, Form 5630.5, with payment of applicable 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 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, or for which registration is being made during the suspension period described in § 19.49(a)(3). The original of the list shall be filed 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).

\* \* \* \* \*

- 23. Section 19.53 is amended by revising paragraph (a) to read as follows:

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

(a) *Issuance of special tax stamps—(1) General.* Except as otherwise provided in paragraph (a)(2) of this section, upon filing a properly executed return on Form 5630.5, together with the applicable 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).

(2) *Exception for suspension period.* During the suspension period described in § 19.49(a)(3) when registration is required but no tax is due, a special tax stamp will not be issued.

\* \* \* \* \*

- 24. Section 19.54 is amended by adding at the end of the third sentence of paragraph (a) before the period the words, "except if the change occurs during the suspension period described in § 19.49(a)(3)" and revising paragraphs (b) and (d) to read as follows:

#### **§ 19.54 Changes in special tax stamps.**

\* \* \* \* \*

(b) *Change in proprietorship—(1) General.* If there is a change in the proprietorship of a distilled spirits

plant, the successor shall file a new special tax return, pay a new special tax, and obtain the required special tax stamps. However, if the change in proprietorship occurs during the suspension period described in § 19.49(a)(3) when no tax is due and no stamp is issued, only the filing of a new special tax return is required.

(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 (or for which registration was made during the suspension period described in § 19.49(a)(3)), 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, which shows the basis of succession. Except during the suspension period described in § 19.49(a)(3), 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.

During the suspension period, a failure to register the succession may result in a penalty under 26 U.S.C. 5603(b).

\* \* \* \* \*

(d) *Change in location.* (1) Subject to paragraph (d)(2) of this section, if there is a change in location of a taxable place of business, the proprietor shall, within 30 days after the change, file 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 file a new special tax return, pay a new special tax, and obtain a new special tax stamp.

(2) If the change in location occurs during the suspension period described in § 19.49(a)(3) when no tax is due and no special tax stamp is issued, the requirements of paragraph (d)(1) of this section still apply, except with regard to attachment of a special tax stamp and payment of a new special tax. During the suspension period, a failure to comply with paragraph (d)(1) of this section may result in a penalty under 26 U.S.C. 5603(b).

\* \* \* \* \*

#### **§ 19.906 [Amended]**

- 25. Section 19.906 is amended by adding at the end of paragraph (a) before

the period the words “except during the suspension period described in § 19.49(a)(3) when special tax stamps are not issued”.

## PART 24—WINE

- 26. The authority citation for part 24 is revised to read as follows:

**Authority:** 5 U.S.C. 552(a); 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5081, 5111–5113, 5121, 5122, 5142, 5143, 5148, 5173, 5206, 5214, 5215, 5351, 5353, 5354, 5356, 5357, 5361, 5362, 5364–5373, 5381–5388, 5391, 5392, 5511, 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.

### ■ 27. In § 24.50:

- a. The first sentence of paragraph (a) is amended by removing the word “Every” and adding, in its place, the words “Except as otherwise provided in paragraph (c) of this section, every”;
- b. The first sentence of paragraph (b) is amended by removing the word “Proprietors” and adding, in its place, the words “Subject to paragraph (c) of this section, proprietors”;
- c. A new paragraph (c) is added to read as follows;
- d. An authority citation is added following new paragraph (c); and
- e. The OMB control numbers at the end of the section are revised to read as follows:

### § 24.50 Payment of special (occupational) tax.

\* \* \* \* \*

(c) *Suspension of tax.* During the period from July 1, 2005, through June 30, 2008, the rate of the tax described in paragraph (a) of this section is zero. However, the proprietor must register by filing the special tax return on Form 5630.5 during the suspension period even though the amount of tax due is zero. During the suspension period, as at other times, the special tax return is due on or before commencement of business and on or before July 1 of each year thereafter.

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

(Approved by the Office of Management and Budget under control numbers 1513–0088 and 1513–0113)

### § 24.51 [Amended]

- 28. In § 24.51:
  - a. Paragraph (a) is amended by adding at the end the following new sentence: “However, under 26 U.S.C. 5148(a), the tax rate is zero during the suspension period described in § 24.50(c).”; and
  - b. The first sentence of paragraph (b) is amended by removing the word “Title” and adding, in its place, the

words “Except during the suspension period described in § 24.50(c) when the tax rate is zero, title”.

### § 24.52 [Amended]

- 29. Section 24.52 is amended:
  - a. In the first sentence of paragraph (a), by adding after the words “special (occupational) tax”, the words “, or to register during the suspension period described in § 24.50(c).”;
  - b. In the second sentence of paragraph (a), by adding after the words “special (occupational) tax” the words “or registration”;
  - c. In the second sentence of paragraph (b), by adding after the words “special (occupational) tax” the words “or from registration”;
  - d. In the third sentence of paragraph (b), by adding after the words “tax will be paid” the words, “or registration will be made during the suspension period described in § 24.50(c).”;
  - e. In paragraph (c), by adding after the words “has not paid special (occupational) tax” the words, “or has not registered during the suspension period described in § 24.50(c).”;
  - f. Also in paragraph (c), by adding after the words “required to pay special (occupational) tax” the words, “or to register during that suspension period.”;
  - g. In paragraph (d), by adding after the words “the appropriate special (occupational) tax” the words, “or who has registered during the suspension period described in § 24.50(c).”; and
  - h. Also in paragraph (d), by adding after the words “to pay special (occupational) tax” the words “or register”.

### § 24.53 [Amended]

- 30. Section 24.53 is amended:
  - a. In paragraph (a), by adding at the end the following new sentence: “During the suspension period described in § 24.50(c), an annual return is required even though no tax is due.”;
  - b. In paragraph (b)(5), by adding at the end before the period the words “or to which the return relates during the suspension period described in § 24.50(c).”;
  - c. In the introductory text of paragraph (c), by adding after the words “special (occupational) tax” the words “(or required to register during the suspension period described in § 24.50(c)).”;
  - d. In paragraph (c)(1), by adding after the words “payment of” the word “applicable”; and
  - e. In paragraph (c)(2), by adding at the end of the second sentence before the period the words “or for which registration is being made during the

suspension period described in § 24.50(c)”.

- 31. Section 24.54 is amended by revising paragraph (a) to read as follows:

### § 24.54 Special (occupational) tax stamps.

(a) *Issuance of special (occupational) tax stamps*—(1) *General.* Except as otherwise provided in paragraph (a)(2) of this section, upon filing a properly executed return on Form 5630.5, together with the applicable full remittance, the taxpayer will be issued an appropriately designated special (occupational) 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 § 24.53(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 case of a corporate taxpayer).

(2) *Exception for suspension period.* During the suspension period described in § 24.50(c) when registration is required but no tax is due, a special tax stamp will not be issued.

\* \* \* \* \*

- 32. Section 24.55 is amended by adding at the end of the last sentence of paragraph (a) before the period the words, “, except if the change occurs during the suspension period described in § 24.50(c)” and revising paragraphs (b) and (d) and the OMB control numbers at the end of the section, and adding an authority citation for the section before the OMB control numbers to read as follows:

### § 24.55 Changes in special (occupational) tax stamps.

\* \* \* \* \*

(b) *Change in proprietorship*—(1) *General.* If there is a change in the proprietorship of a bonded wine premises or taxpaid wine bottling house, the successor shall file a new special tax return, pay a new special (occupational) tax, and obtain the required special (occupational) tax stamps. However, if the change in proprietorship occurs during the suspension period described in § 24.50(c) when no tax is due and no stamp is issued, only the filing of a new special tax return is required.

(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 (occupational) tax was paid (or for which registration was made during the suspension period described in § 24.50(c)), without paying a new special (occupational) tax, if within 30

days after the date on which the successor begins to carry on the business, the successor files a special (occupational) tax return on Form 5630.5, which shows the basis of succession. Except during the suspension period described in § 24.50(c), a person who is a successor to a business for which special (occupational) tax has been paid and who fails to register the succession is liable for special (occupational) tax computed from the first day of the calendar month in which he or she began to carry on the business. During the suspension period, a failure to register the succession may result in a penalty under 26 U.S.C. 5603(b).

(d) *Change in location.* (1) Subject to paragraph (d)(2) of this section, if there is a change in location of a taxable place of business, the proprietor shall, within 30 days after the change, file an amended special (occupational) tax return covering the new location. The proprietor shall attach the special (occupational) tax stamp or stamps for endorsement of the change in location. No new special (occupational) tax is required to be paid. However, if the proprietor does not file the amended return within 30 days, the proprietor is required to file a new special (occupational) tax return, pay a new special (occupational) tax, and obtain a new special (occupational) tax stamp.

(2) If the change in location occurs during the suspension period described in § 24.50(c) when no tax is due and no special (occupational) tax stamp is issued, the requirements of paragraph (d)(1) of this section still apply, except with regard to attachment of a special (occupational) tax stamp and payment of a new special (occupational) tax. During the suspension period, a failure to comply with paragraph (d)(1) of this section may result in a penalty under 26 U.S.C. 5603(b).

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

(Approved by the Office of Management and Budget under control numbers 1513–0088 and 1513–0113)

## PART 25—BEER

■ 33. 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, 5148, 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.

■ 34. Section 25.111 is amended:

- a. At the beginning of paragraph (a), by removing the word “Every” and adding, in its place, the words “Except as otherwise provided in paragraph (c) of this section, every”; and
- b. By adding a new paragraph (c) before the authority citation to read as follows:

### § 25.111 Brewer's special tax.

\* \* \* \* \*

(c) *Suspension of tax.* During the period from July 1, 2005, through June 30, 2008, the rate of the tax described in paragraph (a) of this section is zero. However, the proprietor must register by filing the special tax return on Form 5630.5 during the suspension period even though the amount of tax due is zero. During the suspension period, as at other times, the special tax return is due on or before commencement of business and on or before July 1 of each year thereafter.

\* \* \* \* \*

### § 25.111a [Amended]

- 35. Section 25.111a is amended by adding at the end of paragraph (b) before the period the words “, except that the tax rate is zero during the suspension period described in § 25.111(c).”

### § 25.111b [Amended]

- 36. Section 25.111b is amended by adding at the end of the second sentence of paragraph (a) before the period the words “, except that the tax rate is zero during the suspension period described in § 25.111(c)”.

### § 25.113 [Amended]

- 37. In § 25.113:
  - a. The first sentence of paragraph (a) is amended by removing the word “at” and adding, in its place, the words “, or must register by filing the special tax return during the suspension period described in § 25.111(c), for”; and
  - b. Paragraph (b) is amended by adding after the word “liability” the words “(or will not have to register during the suspension period described in § 25.111(c))”.

### § 25.114 [Amended]

- 38. In § 25.114:
  - a. The first sentence of paragraph (a) is amended by adding after the words “special tax” the words “or to register during the suspension period described in § 25.111(c),”;
  - b. The second sentence of paragraph (a) is amended by adding after the words “dealer's special tax” the words “or registration”;
  - c. The last sentence of paragraph (a) is amended by adding after the words

“dealer's special tax” the words “or registration”;

- d. Paragraph (b) is amended by adding after the words “appropriate special tax” the words “, or who has registered during the suspension period described in § 25.111(c),”;
- e. Paragraph (b) is further amended by adding after the words “pay special tax” the words “or register”.

### § 25.117 [Amended]

- 39. Section 25.117 is amended by adding at the end of the first sentence before the period the words “, and a return is required during the suspension period described in § 25.111(c) even though no tax is due” and adding in the third sentence after the words “payment of” the word “applicable”.

### § 25.118 [Amended]

- 40. Section 25.118 is amended by adding at the end of paragraph (e) before the period the words “or to which the return relates during the suspension period described in § 25.111(c)”.

### § 25.119 [Amended]

- 41. In § 25.119:
  - a. The introductory text is amended by adding after the words “subject to special tax” the words “(or required to register during the suspension period described in § 25.111(c))”;
  - b. Paragraph (a) is amended by adding after the words “payment of” the word “applicable”; and
  - c. The second sentence of paragraph (b) is amended by adding after the words “special tax is being paid” the words “or for which registration is being made during the suspension period described in § 25.111(c)”.
- 42. Section 25.125 is amended:
  - a. By designating the existing text as paragraph (a);
  - b. In the first sentence of newly designated paragraph (a), by removing the word “Upon” and adding, in its place, the words “Except as otherwise provided in paragraph (b) of this section, upon”;
  - c. Also in the first sentence of newly designated paragraph (a), by adding after the words “together with the” the word “applicable”; and
  - d. By adding a new paragraph (b) before the section authority citation to read as follows:

### § 25.125 Issuance of special tax stamps.

\* \* \* \* \*

(b) During the suspension period described in § 25.111(c) when registration is required but no tax is due, a special tax stamp will not be issued.

\* \* \* \* \*

**§ 25.131 [Amended]**

■ 43. Section 25.131 is amended by adding at the end of the last sentence before the period the words “, except if the change occurs during the suspension period described in § 25.111(c)”.

■ 44. Section 25.132 is revised to read as follows:

**§ 25.132 Change in proprietorship.**

(a) *General.* If there is a change in the proprietorship of a brewery, the successor shall file a new special tax return, pay a new special tax, and obtain the required special tax stamps. However, if the change in proprietorship occurs during the suspension period described in § 25.111(c) when no tax is due and no stamp is issued, only the filing of a new special tax return is required.

(b) *Exemption for certain successors.* Persons having the right of succession provided for in § 25.133 may carry on the business for the remainder of the period for which the special tax was paid (or for which registration was made during the suspension period described in § 25.111(c)), if within 30 days after the date on which the successor begins to carry on the business, the successor files a return on Form 5630.5, which shows the basis of succession. Except during the suspension period described in § 25.111(c), 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.

During the suspension period, a failure to register the succession may result in a penalty under 26 U.S.C. 5603(b).

(Act of August 16, 1954, 68A Stat. 845, as amended (26 U.S.C. 7011); sec. 201, Pub. L. 85-859, 72 Stat. 1347, as amended (26 U.S.C. 5143))

■ 45. Section 25.134 is revised to read as follows:

**§ 25.134 Change in location.**

(a) Subject to paragraph (b) of this section, if there is a change in location of a taxable place of business, the brewer shall, within 30 days after the change, file 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 file a new special tax return, pay a new special tax, and obtain a new special tax stamp.

(b) If the change in location occurs during the suspension period described in § 25.111(c) when no tax is due and no special tax stamp is issued, the requirements of paragraph (a) of this section still apply, except with regard to attachment of a special tax stamp and payment of a new special tax. During the suspension period, a failure to comply with paragraph (a) of this section may result in a penalty under 26 U.S.C. 5603(b). (26 U.S.C. 5143, 7011)

**PART 26—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS**

■ 46. The authority citation for part 26 is revised to read as follows:

**Authority:** 19 U.S.C. 81c; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5061, 5081, 5111, 5112, 5114, 5121, 5122, 5124, 5131–5134, 5141, 5146, 5148, 5207, 5232, 5271, 5276, 5301, 5314, 5555, 6001, 6301, 6302, 6804, 7101, 7102, 7651, 7652, 7805; 27 U.S.C. 203, 205; 31 U.S.C. 9301, 9303, 9304, 9306.

■ 47. Section 26.44 is amended by designating the existing text as paragraph (a), adding the heading “*General.*” to newly designated paragraph (a), removing the word “*Every*” at the beginning of the first sentence of newly designated paragraph (a) and adding, in its place, the words “*Except as otherwise provided in paragraph (b) of this section, every*”, and adding a new paragraph (b) before the section authority citation to read as follows:

**§ 26.44 Liquor dealer's special taxes.**

\* \* \* \* \*

(b) *Suspension of tax.* During the period from July 1, 2005, through June 30, 2008, the rate of the tax described in paragraph (a) of this section is zero. However, every person described in paragraph (a) of this section must register by filing the special tax return on Form 5630.5, in accordance with part 31 of this chapter, during the suspension period even though the amount of tax due is zero.

\* \* \* \* \*

■ 48. Section 26.45 is revised to read as follows:

**§ 26.45 Warehouse receipts covering distilled spirits.**

The sale of warehouse receipts for distilled spirits is equivalent to the sale of distilled spirits. Accordingly, except during the suspension period described in § 26.44(b), every person bringing distilled spirits into the United States from Puerto Rico, who sells, or offers for sale, warehouse receipts for distilled spirits stored in warehouses, or elsewhere, incurs liability to special tax

as a dealer in liquors at the place where such warehouse receipts are sold, or offered for sale, and must file return and pay occupational tax as provided in § 26.44(a). During the suspension period, every such person must register as provided in § 26.44(b).

(68A Stat. 618, 620, 621; 26 U.S.C. 5111, 5112, 5121, 5122)

■ 49. Section 26.46 is amended by designating the existing text as paragraph (a), adding the heading “*General.*” to newly designated paragraph (a), removing the word “*Every*” at the beginning of the first sentence of newly designated paragraph (a) and adding, in its place, the words “*Except as otherwise provided in paragraph (b) of this section, every*”, and adding a new paragraph (b) before the section authority citation to read as follows:

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

\* \* \* \* \*

(b) *Suspension of tax.* During the period from July 1, 2005, through June 30, 2008, the rate of the tax described in paragraph (a) of this section is zero. However, every person described in paragraph (a) of this section must register by filing the special tax return on Form 5630.5, in accordance with part 19 of this chapter, during the suspension period even though the amount of tax due is zero.

\* \* \* \* \*

■ 50. Section 26.171 is amended by designating the existing text as paragraph (a), adding the heading “*General.*” to newly designated paragraph (a), removing the word “*Any*” at the beginning of the first sentence of newly designated paragraph (a) and adding, in its place, the words “*Except as otherwise provided in paragraph (b) of this section, any*”, and adding a new paragraph (b) to read as follows:

**§ 26.171 Special tax.**

\* \* \* \* \*

(b) *Suspension of tax.* During the period from July 1, 2005, through June 30, 2008, the rate of the tax described in paragraph (a) of this section is zero. However, any person described in paragraph (a) of this section must register by filing the special tax return on Form 5630.5, in accordance with part 17 of this chapter, during the suspension period even though the amount of tax due is zero.

■ 51. Section 26.210 is amended by designating the existing text as paragraph (a), adding the heading “*General.*” to newly designated paragraph (a), removing the word

"Every" at the beginning of the first sentence of newly designated paragraph (a) and adding, in its place, the words "Except as otherwise provided in paragraph (b) of this section, every", and adding a new paragraph (b) before the section authority citation to read as follows:

**§ 26.210 Liquor dealer's special taxes.**

\* \* \* \* \*

(b) *Suspension of tax.* During the period from July 1, 2005, through June 30, 2008, the rate of the tax described in paragraph (a) of this section is zero. However, every person described in paragraph (a) of this section must register by filing the special tax return on Form 5630.5, in accordance with part 31 of this chapter, during the suspension period even though the amount of tax due is zero.

\* \* \* \* \*

■ 52. Section 26.211 is revised to read as follows:

**§ 26.211 Warehouse receipts covering distilled spirits.**

The sale of warehouse receipts for distilled spirits is equivalent to the sale of distilled spirits. Accordingly, except during the suspension period described in § 26.210(b), every person bringing distilled spirits into the United States from the Virgin Islands, who sells, or offers for sale, warehouse receipts for distilled spirits stored in warehouses, or elsewhere, incurs liability to special tax as a dealer in liquors at the place where such warehouse receipts are sold, or offered for sale, and must file return and pay occupational tax as provided in § 26.210(a). During the suspension period, every such person must register as provided in § 26.210(b).

(68A Stat. 618, 620, 621; 26 U.S.C. 5111, 5112, 5121, 5122)

■ 53. Section 26.307 is amended by designating the existing text as paragraph (a), adding the heading "General," to newly designated paragraph (a), removing the word "Any" at the beginning of the first sentence of newly designated paragraph (a) and adding, in its place, the words "Except as otherwise provided in paragraph (b) of this section, any", and adding a new paragraph (b) to read as follows:

**§ 26.307 Special tax.**

\* \* \* \* \*

(b) *Suspension of tax.* During the period from July 1, 2005, through June 30, 2008, the rate of the tax described in paragraph (a) of this section is zero. However, any person described in paragraph (a) of this section must register by filing the special tax return

on Form 5630.5, in accordance with part 17 of this chapter, during the suspension period even though the amount of tax due is zero.

**PART 27—IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER**

■ 54. The authority citation for part 27 is revised to read as follows:

**Authority:** 5 U.S.C. 552(a), 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5054, 5061, 5148, 5111, 5112, 5114, 5121, 5122, 5124, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5555, 6302, 7805.

■ 55. Section 27.30 is amended by designating the existing text as paragraph (a), adding the heading "General," to newly designated paragraph (a), removing the word "Importers" at the beginning of the first sentence of newly designated paragraph (a) and adding, in its place, the words "Except as otherwise provided in paragraph (b) of this section, importers", and adding a new paragraph (b) before the section authority citation to read as follows:

**§ 27.30 Special (occupational) tax.**

\* \* \* \* \*

(b) *Suspension of tax.* During the period from July 1, 2005, through June 30, 2008, the rate of the tax described in paragraph (a) of this section is zero. However, the persons described in paragraph (a) of this section must register by filing the special tax return on Form 5630.5, in accordance with part 31 of this chapter, during the suspension period even though the amount of tax due is zero.

\* \* \* \* \*

■ 56. Section 27.31 is revised to read as follows:

**§ 27.31 Warehouse receipts covering distilled spirits.**

The sale of warehouse receipts for distilled spirits is equivalent to the sale of distilled spirits. Accordingly, except during the suspension period described in § 27.30(b), every person engaged in business as an importer of distilled spirits, who sells, or offers for sale, warehouse receipts for distilled spirits stored in customs bonded warehouses, or elsewhere, incurs liability to special tax as a dealer in liquors at the place where the warehouse receipts are sold or offered for sale, and must file return and pay occupational tax as provided in § 27.30(a). During the suspension period, every such person must register as provided in § 27.30(b).

(68A Stat. 618, 620, 621; 26 U.S.C. 5111, 5112, 5121, 5122)

**PART 31—ALCOHOL BEVERAGE DEALERS**

■ 57. The authority citation for part 31 is revised to read as follows:

**Authority:** 26 U.S.C. 5001, 5002, 5111'5114, 5116, 5117, 5121–5124, 5142, 5143, 5145, 5146, 5148, 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.

■ 58. Section 31.21 is amended by designating the existing text as paragraph (a), adding the heading "General," to newly designated paragraph (a), removing the word "Special" at the beginning of the first sentence of newly designated paragraph (a) and adding, in its place, the words "Except as otherwise provided in paragraph (b) of this section, special", and adding a new paragraph (b) before the section authority citation to read as follows:

**§ 31.21 Basis of tax.**

\* \* \* \* \*

(b) *Suspension of tax.* During the period from July 1, 2005, through June 30, 2008, the rate of the tax described in paragraph (a) of this section is zero. However, liquor dealers must register by filing the special tax return on Form 5630.5 during the suspension period even though the amount of tax due is zero. During the suspension period, as at other times, the special tax return is due on or before commencement of business and on or before July 1 of each year thereafter.

\* \* \* \* \*

■ 59. Section 31.23 is revised to read as follows:

**§ 31.23 Retail dealer in liquors.**

(a) *General.* Every person who sells or offers for sale distilled spirits, wines, or beer to any person other than a dealer is, except as provided in paragraph (b) of this section, a retail dealer in liquors. Except during the suspension period described in § 31.21(b), every retail dealer in liquors shall pay special tax at the rate specified in § 31.101 for such dealer, unless such dealer is exempt from such special tax as provided in paragraph (c) of this section. During the suspension period described in § 31.21(b) when no tax is due, the dealer must register by filing the special tax return, Form 5630.5.

(b) *Persons not deemed to be retail dealers in liquors.* The following persons are not deemed to be retail dealers in liquors within the meaning of 26 U.S.C. chapter 51, and are not required to pay special tax (or to register

during the suspension period described in § 31.21(b)) as such dealer:

(1) A retail dealer in beer as defined in § 31.25,

(2) A limited retail dealer as specified in § 31.27, or

(3) A person who only sells or offers for sale distilled spirits, wines, or beer as provided in § 31.188 through § 31.190 or § 31.191(a).

(c) *Persons exempt from special tax.* The following persons are exempt from special tax (and from registration during the suspension period described in § 31.21(b)) as retail dealers in liquors:

(1) A wholesale dealer in liquors selling or offering for sale distilled spirits, wines, or beer, whether to dealers or persons other than dealers, at any place where such wholesale dealer in liquors is required to pay special tax (or to register during the suspension period described in § 31.21(b)) as such dealer.

(2) A wholesale dealer in beer selling or offering for sale beer only, whether to dealers or persons other than dealers, at any place where such wholesale dealer in beer is required to pay special tax (or to register during the suspension period described in § 31.21(b)) as such dealer, or

(3) A person who is exempt from special tax under the provisions of §§ 31.181–31.184, 31.187, or 31.187a.

(72 Stat. 1340, 1343, 1344; 26 U.S.C. 5113, 5121, 5122)

■ 60. Section 31.24 is revised to read as follows:

#### **§ 31.24 Wholesale dealer in liquors.**

(a) *General.* Every person who sells or offers for sale distilled spirits, wines, or beer to another dealer is, except as provided in paragraph (b) of this section, a wholesale dealer in liquors. Except during the suspension period described in § 31.21(b), every wholesale dealer in liquors is required to pay special tax at the rate specified in § 31.101 for such dealer, unless such dealer is exempt from such special tax as provided in paragraph (c) of this section. During the suspension period when no tax is due, the dealer must register by filing the special tax return, Form 5630.5, in accordance with § 31.21(b).

(b) *Persons not deemed to be wholesale dealers in liquors.* The following persons are not deemed to be wholesale dealers in liquors within the meaning of 26 U.S.C. chapter 51, and are not required to pay special tax (or to register during the suspension period described in § 31.21(b)) as such dealer:

(1) A wholesale dealer in beer as defined in § 31.26,

(2) A person who only sells or offers for sale distilled spirits, wines, or beer as provided in §§ 31.188 through 31.190 or § 31.192, or

(3) A person returning liquors for credit, refund, or exchange as provided in § 31.193.

(c) *Persons exempt from special tax.*

(1) The following persons are exempt from special tax (and from registration during the suspension period described in § 31.21(b)) as wholesale dealers in liquors:

(i) A retail dealer in liquors who consummated sales of distilled spirits, beer or wine, or any combination thereof, to a limited retail dealer at the place where such retail dealer in liquors has paid the special tax (or has registered during the suspension period described in § 31.21(b)) as such dealer for the current tax year,

(ii) A retail dealer in beer who, having paid the special tax (or having registered during the suspension period described in § 31.21(b)) as such dealer for the current tax year, consummated sales at his place of business of beer to a limited retail dealer, or

(iii) A person who is exempt from such tax under the provisions of §§ 31.181 through 31.184.

(2) A wholesale dealer in liquors who has paid the special tax (or has registered during the suspension period described in § 31.21(b)) as such dealer at the place or places from which he conducts his selling operations is exempt from additional special tax (or from additional registration during the suspension period described in § 31.21(b)) on account of his sales of beer or wines to other dealers at the places of business of such dealers.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1340, as amended, 1344, as amended; sec. 1905, Pub. L. 94–455, 90 Stat. 1819 (26 U.S.C. 5111, 5112, 5113, 5123))

■ 61. Section 31.25 is revised to read as follows:

#### **§ 31.25 Retail dealer in beer.**

(a) *General.* Every person who sells or offers for sale beer, but not distilled spirits or wines, to any person other than a dealer is, except as provided in paragraph (b) of this section, a retail dealer in beer. Except during the suspension period described in § 31.21(b), every retail dealer in beer shall pay special tax at the rate specified in § 31.101 for such dealer, unless such dealer is exempt from such special tax as provided in paragraph (c) of this section. During the suspension period when no tax is due, the dealer must register by filing the special tax return, Form 5630.5, in accordance with § 31.21(b).

(b) *Persons not deemed to be retail dealers in beer.* The following persons are not deemed to be retail dealers in beer within the meaning of 26 U.S.C. chapter 51, and are not required to pay a special tax (or to register during the suspension period described in § 31.21(b)) as such dealer:

(1) A limited retail dealer as specified in § 31.27, or

(2) A person who only sells or offers for sale beer, but not distilled spirits or wines, as provided in § 31.188 through § 31.189 or § 31.191(a).

(c) *Persons exempt from special tax.* The following persons are exempt from special tax (and from registration during the suspension period described in § 31.21(b)) as retail dealers in beer:

(1) A wholesale dealer in beer selling or offering for sale beer, but not distilled spirits or wines, whether to dealers or persons other than dealers, at any place where such wholesale dealer in beer is required to pay special tax (or to register during the suspension period described in § 31.21(b)) as such dealer.

(2) A person who is exempt from special tax under the provisions of §§ 31.181, 31.184, 31.187, or 31.187a.

(72 Stat. 1340, 1343, 1344; 26 U.S.C. 5113, 5121, 5122)

■ 62. Section 31.26 is revised to read as follows:

#### **§ 31.26 Wholesale dealer in beer.**

(a) *General.* Every person who sells or offers for sale beer, but not distilled spirits or wines, to another dealer is, except as provided in paragraph (b) of this section, a wholesale dealer in beer. Except during the suspension period described in § 31.21(b), every wholesale dealer in beer is required to pay special tax at the rate specified in § 31.101 for such dealer, unless such dealer is exempt from such special tax as provided in paragraph (c) of this section. During the suspension period when no tax is due, the dealer must register by filing the special tax return, Form 5630.5, in accordance with § 31.21(b).

(b) *Persons not deemed to be wholesale dealers in beer.* The following persons are not deemed to be wholesale dealers in beer within the meaning of 26 U.S.C. chapter 51, and are not required to pay special tax (or to register during the suspension period described in § 31.21(b)) as such dealer:

(1) A person who only sells or offers for sale beer, but not distilled spirits or wines, as provided in § 31.188 through § 31.189 or § 31.192, or

(2) A person returning beer for credit, refund or exchange as provided in § 31.193.

(c) *Persons exempt from special tax.*

(1) The following persons are exempt from special tax (and from registration during the suspension period described in § 31.21(b)) as wholesale dealers in beer:

(i) A retail dealer in liquors who consummates sales of distilled spirits, beer or wine, or any combination thereof, to a limited retail dealer at the place where such retail dealer in liquors has paid the special tax (or has registered during the suspension period described in § 31.21(b)) as such dealer for the current tax year,

(ii) A retail dealer in beer who consummates sales of beer to a limited dealer at the place where such retail dealer in beer has paid the special tax (or has registered during the suspension period described in § 31.21(b)) as such dealer for the current tax year, or

(iii) A person who is exempt from such tax under the provisions of §§ 31.181 and 31.184.

(2) A wholesale dealer in beer who has paid the special tax (or has registered during the suspension period described in § 31.21(b)) as such dealer at the place, or places, from which he conducts his selling operations is exempt from additional special tax (or from additional registration during the suspension period described in § 31.21(b)) on account of his sales of beer to other dealers at the places of business of such dealers.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1340, as amended, 1344, as amended; sec. 1905, Pub. L. 94-455, 90 Stat. 1819 (26 U.S.C. 5111, 5112, 5113, 5123))

■ 63. Section 31.29 is revised to read as follows:

**§ 31.29 Clubs or similar organizations.**

(a) Subject to paragraph (b) of this section, a club or similar organization shall pay special tax (or register during the suspension period as provided in § 31.21(b)) if such club or organization:

(1) Furnishes liquors to members under conditions constituting sale (including the acceptance of orders therefor, furnishing the liquors ordered and collecting the price thereof); or

(2) 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 § 31.27 (the special tax stamp or registration of the proprietor of the premises where the bar is located will not relieve the club or organization from its own special tax payment or registration); or

(3) Purchases liquors for members without prior agreement concerning payment therefor and such organization subsequently recoups.

(b) Special tax payment or registration is not required if money is collected in advance from members for the purchase of liquors, or money is advanced for purchase of liquors on agreement with the members for reimbursement.

(72 Stat. 1340, 1343, 1344; 26 U.S.C. 5111, 5121, 5122)

**§ 31.30 [Amended]**

■ 64. Section 31.30 is amended by adding at the end before the period the words "or shall register during the suspension period as provided in § 31.21(b)".

■ 65. Section 31.31 is amended by designating the existing text as paragraph (a), adding the heading "General." to newly designated paragraph (a), and adding a new paragraph (b) before the section authority citation to read as follows:

**§ 31.31 States, political subdivisions thereof, or the District of Columbia.**

\* \* \* \* \*

(b) *Suspension of tax.* During the suspension period described in § 31.21(b) when no tax is due, the States, their political subdivisions, and the District of Columbia must register only once per tax year by filing a special tax return, Form 5630.5, in accordance with § 31.21(b).

\* \* \* \* \*

**§ 31.32 [Amended]**

■ 66. Section 31.32 is amended by adding at the end before the period the words "or shall register during the suspension period as provided in § 31.21(b)".

**§ 31.33 [Amended]**

■ 67. In § 31.33:

■ a. Amend the heading of paragraph (a) by removing the word "liability"; and  
 ■ b. Amend the text of paragraph (a) by removing the word "liability" and adding, in its place, the words "payment (or registration during the suspension period as provided in § 31.21(b))", and by removing the word "incurred" and adding, in its place, the word "required".

**§ 31.34 [Amended]**

■ 68. Section 31.34 is amended by adding after the words "pay special tax," the words "(or register during the suspension period as provided in § 31.21(b))".

■ 69. Section 31.35 is revised to read as follows:

**§ 31.35 Warehouse receipts covering spirits.**

The sale of warehouse receipts for distilled spirits is equivalent to the sale of distilled spirits. Accordingly, except during the suspension period described in § 31.21(b), every person who sells or offers for sale warehouse receipts for spirits held or stored in a distilled spirits plant, customs bonded warehouse, or elsewhere, is required to file a special tax return and pay special tax as a wholesale dealer in liquors, or as a retail dealer in liquors, as the case may be, at the place where such warehouse receipts are sold, or offered for sale, unless exempt by the provisions of subpart L of this part. During the suspension period, such persons must register as provided in § 31.21(b).

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

■ 70. Section 31.51 is revised to read as follows:

**§ 31.51 Special tax liability incurred at each place of business.**

Except as provided in §§ 31.31 and 31.181 through 31.193, payment of special tax (or registration during the suspension period as provided in § 31.21(b)) is required for each and every place where distilled spirits, wines, or beer are sold or offered for sale: *Provided*, That the term "place" as used in this section means the entire office, plant or area of the business in any one location under the same proprietorship; and passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises shall not be deemed sufficient separation to require the payment of additional special tax (or to require additional registration), if the various divisions are otherwise contiguous.

(72 Stat. 1347; 26 U.S.C. 5143)

**§ 31.53 [Amended]**

■ 71. The second sentence of § 31.53 is amended by adding after the words "special tax stamp" the words "(or for which he has registered during the suspension period described in § 31.21(b) when no tax is due and no special tax stamp is issued)" and adding after the words "exempt from special tax," the words "or registration".

■ 72. Section 31.54 is revised to read as follows:

**§ 31.54 Places of storage; deliveries therefrom.**

Special tax is not required to be paid (and registration under § 31.21(b) is not required) for warehouses and similar places which are used by dealers merely

for the storage of liquors and are not places where orders for liquors are accepted. Where orders for liquors are received and duly accepted at a place where the dealer holds the required special tax stamp (or for which the dealer has registered during the suspension period described in § 31.21(b) when no special tax stamp is issued), the subsequent actual delivery of the liquors from a place of storage does not require the payment of special tax (or registration) at such place of storage. Except as provided in §§ 31.185 and 31.186, a dealer holding a special tax stamp (or having registered during the suspension period) at a given place, who makes actual delivery of liquors from a warehouse at another place, without prior constructive delivery by the acceptance of an order therefor at the place covered by the special tax stamp (or by registration during the suspension period), shall pay special tax (or shall register during the suspension period as provided in § 31.21(b)) at the place where ownership of the liquors is transferred.

(72 Stat. 1340, 1347; 26 U.S.C. 5113, 5143)

■ 73. Section 31.55 is revised to read as follows:

#### **§ 31.55 Caterers.**

(a) *General.* Where a contract to furnish liquors is made by a caterer at his place of business where he holds a special tax stamp (or for which he has registered during the suspension period described in § 31.21(b)), no payment of special tax (or registration during the suspension period) is required by the serving of the liquors at a different location.

(b) *Additional liability.* Where the contract of a caterer provides for the sale of liquors by the drink at a place, or simultaneously at different places, other than his place of business where he holds a special tax stamp (or for which he has registered during the suspension period described in § 31.21(b)), a separate payment of special tax (or registration during the suspension period) is required for each such place.

(c) *Records.* Caterers must maintain sufficient commercial records to verify that their special (occupational) tax liabilities (or registration obligations during the suspension period described in § 31.21(b)) have been satisfied for all locations at which activities subject to special (occupational) tax or registration occur. These commercial records should indicate the names and addresses of locations at which alcoholic beverages have been sold or offered for sale and the dates and times that such activities

occurred. These commercial records must be available to TTB officers upon request.

(26 U.S.C. 5121, 5122, 5143, 5555, 6806, 7011)

#### **§ 31.56 [Amended]**

■ 74. In § 31.56, the second sentence is amended by adding after the words "pay special tax" the words "(or to register during the suspension period as provided in § 31.21(b))".

#### **§ 31.57 [Amended]**

■ 75. In § 31.57:

- a. The first sentence is amended by adding after the word "stamp" the words "(or one registration during the suspension period described in § 31.21(b) when no tax is due and no special tax stamp is issued)"; and
- b. The second sentence is amended by adding at the end before the period the words ", or shall register only once per tax year during the suspension period in accordance with § 31.21(b)".

#### **§ 31.58 [Amended]**

■ 76. In § 31.58:

- a. The first sentence is amended by adding at the end before the period the words ", or shall register only once per tax year during the suspension period described in § 31.21(b)";
- b. The third sentence is amended by adding at the end before the period the words ", or shall register only once per tax year during the suspension period in accordance with § 31.21(b)".

#### **§ 31.59 [Amended]**

■ 77. In § 31.59:

- a. The first sentence is amended by adding after the words "special tax" the words "(or shall register only once per tax year during the suspension period described in § 31.21(b))"; and
- b. The second sentence is amended by adding after the words "special tax" the words "(or shall register only once per tax year during the suspension period in accordance with § 31.21(b))".

■ 78. Section 31.71 is amended by designating the existing text as paragraph (a), adding the heading "*General.*" to newly designated paragraph (a), and adding a new paragraph (b) before the section authority citation to read as follows:

#### **§ 31.71 Different businesses of same ownership and location.**

(b) *Suspension of tax.* The person must register for each business during the suspension period as provided in § 31.21(b) when no tax is due, except as provided in §§ 31.24 and 31.26.

■ 79. Section 31.72 is amended by revising paragraph (b) to read as follows:

#### **§ 31.72 Dealer in beer and dealer in liquors at the same location.**

\* \* \* \* \*

(b) *Rule in effect on January 1, 1988, and thereafter.* Any person who pays special tax (or who registers during the suspension period as provided in § 31.21(b)) as a retail dealer in beer for a period beginning on or after January 1, 1988, (including one who pays such tax under the transition rule of § 31.103(b)) is exempt from additional special tax (or from additional registration during the suspension period) as a retail dealer in liquors with respect to sales of distilled spirits or wine at the place and during the period for which the tax was paid (or registration was completed) as a retail dealer in beer. Similarly, any person who pays special tax (or who registers during the suspension period as provided in § 31.21(b)) as a wholesale dealer in beer for a period beginning on or after January 1, 1988, (including one who pays such tax under the transition rule of § 31.103(b)) is exempt from additional special tax (or from additional registration during the suspension period) as a wholesale dealer in liquors with respect to sales of distilled spirits or wine at the place and during the period for which the tax was paid (or registration was completed) as a wholesale dealer in beer.

\* \* \* \* \*

■ 80. Section 31.91 is revised to read as follows:

#### **§ 31.91 Liability of partners.**

Any number of persons carrying on one business in partnership at any one place during any tax year shall be required to pay but one special tax (or to register but once during the suspension period as provided in § 31.21(b)) for such business.

(72 Stat. 1347; 26 U.S.C. 5143)

■ 81. Section 31.92 is revised to read as follows:

#### **§ 31.92 Addition of partners or incorporation of partnership.**

Except during the suspension period described in § 31.21(b), where a number of persons who have paid special tax as partners admit one or more new members to the firm or form a corporation (a separate legal entity) to take over the business, the new firm or corporation shall pay special tax before commencing business. During the suspension period described in § 31.21(b), the new firm or corporation must register as a new dealer.

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

- 82. Section 31.93 is revised to read as follows:

**§ 31.93 Formation of a partnership by two dealers.**

Except during the suspension period described in § 31.21(b), where two persons, each holding a special tax stamp for a business carried on by himself, form a partnership, the firm shall pay special tax to cover the business conducted by the partnership. During the suspension period described in § 31.21(b), if two registered dealers form a partnership, the firm must register as a new dealer.

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

**§ 31.94 [Amended]**

- 83. Section 31.94 is amended:
  - a. In the second sentence, by adding after the word "However," the words "except during the suspension period described in § 31.21(b);"; and
  - b. By adding the following new sentence to the end of the paragraph: "During the suspension period, the remaining partner or partners must file a new registration on Form 5630.5 within 30 days after the change in control."
  - 84. In § 31.101, paragraph (b) is amended by designating the existing text as paragraph (b)(1), adding the heading "*General.*" to newly designated paragraph (b)(1), and adding a new paragraph (b)(2) before the section authority citation to read as follows:

**§ 31.101 Special tax rates.**

\* \* \* \*

(b) \* \* \*

*(2) Rate during suspension period.*

During the suspension period described in § 31.21(b), the special (occupational) tax rate for all dealers in liquor or beer is zero.

\* \* \* \* \*

- 85. Section 31.102 is revised to read as follows:

**§ 31.102 Date special tax is due.**

Except during the suspension period described in § 31.21(b), special taxes shall be paid on or before July 1 of each year, or before engaging in business. During the suspension period when no tax is due, dealers must register by filing the special tax return, Form 5630.5, before commencement of business and on or before July 1 of each year thereafter.

(72 Stat. 1346; 26 U.S.C. 5142)

**§ 31.104 [Amended]**

- 86. In § 31.104:
  - a. The first sentence is amended by adding after the words "payment of" the word "applicable";
  - b. The first sentence is further amended by adding after the words "shall file a Form 5630.5 with" the word "applicable";
  - c. The second sentence is amended by adding after the words "subject to special tax" the words "(or required to register during the suspension period described in § 31.21(b))";
  - d. The second sentence is further amended by adding after the words "payment of" the word "applicable"; and
  - e. The third sentence is amended by adding after the words "return and" the word "applicable".

**§ 31.104a [Amended]**

- 87. Section 31.104a is amended by adding after the words "remittance of" the word "applicable".
- 88. Section 31.106 is amended by revising paragraphs (a), (b)(5), and (c) to read as follows:

**§ 31.106 Special tax returns.**

(a) *General.* Special tax shall be paid by return, and the filing of a return is required for registration purposes even though no tax is due during the suspension period described in § 31.21(b). The prescribed return is TTB Form 5630.5, Special Tax Registration and Return. Special tax returns, with payment of tax, shall be filed with TTB in accordance with instructions on the form.

(b) \* \* \*

(5) The class(es) of special tax to which the taxpayer is subject or to which the return relates during the suspension period described in § 31.21(b).

\* \* \* \* \*

(c) *Multiple locations and/or classes of tax.* A taxpayer subject to special tax, or required to register during the suspension period described in § 31.21(b), for the same period at more than one location or for more than one class of tax shall—

(1) File one special tax return, TTB Form 5630.5, with payment of applicable 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 TTB 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 or for which registration is being made during the suspension period described in § 31.21(b). The original of the list shall be filed with TTB 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 § 31.237.

\* \* \* \* \*

**§ 31.109 [Amended]**

- 89. In § 31.109, paragraph (a) is amended:
  - a. At the beginning of the first sentence, by removing the word "Any" and adding, in its place, the words "Except during the suspension period described in § 31.21(b), any"; and
  - b. By adding the following new sentence to the end of the paragraph: "During the suspension period, a failure to file a return may result in a penalty under 26 U.S.C. 5603(b)."
- 90. Section 31.121 is amended by revising paragraph (a) to read as follows:

**§ 31.121 Issuance of stamps.**

(a) *Issuance—(1) General.* Except as otherwise provided in paragraph (a)(2) of this section, upon filing a return properly executed on Form 5630.5, together with a remittance in the applicable full amount due, the taxpayer will be issued an appropriately designated stamp. Special tax stamps will not be issued in the case of a return covering liability for a past period.

(2) *Exception for suspension period.* During the suspension period described in § 31.21(b) when registration is required but no tax is due, a special tax stamp will not be issued.

\* \* \* \* \*

- 91. The heading and text of § 31.124 are revised to read as follows:

**§ 31.124 Passenger trains, aircraft, and vessels.**

(a) *Issuance of stamps—(1)* Except as otherwise provided in paragraph (a)(2) of this section, special tax stamps may be issued in general terms "in the United States" to persons who will carry on the business of retail dealers in liquors or retail dealers in beer, on trains, aircraft, boats or other vessels, engaged in the business of carrying passengers. If sales of liquors are made at the same time on two or more passenger carriers, a special tax stamp shall be obtained for each such carrier. However, a dealer may transfer any such stamp from one passenger carrier to another on which he conducts his business, without registering the transfer with TTB, and he may conduct

such business throughout the passenger carrying train, aircraft, boat or other vessel, to which the stamp is transferred.

(2) During the suspension period described in § 31.21(b) when no tax is due, dealers operating on trains, aircraft, and vessels must register as provided in paragraph (b) of this section, but no special tax stamps will be issued.

(b) *Filing of Form 5630.5 and payment of tax.* A person subject to special tax (or to registration during the suspension period described in § 31.21(b)) on one or more passenger carriers shall file one Form 5630.5, prepared in the manner prescribed in § 31.106(b), with payment of applicable tax in accordance with § 31.101, to cover all such carriers and shall specify on the Form 5630.5 the number of passenger carriers for which special tax is being paid (or for which registration is being completed).

(Sec. 201, Pub. L. 85-859, 72 Stat. 1344 as amended, 1347 as amended (26 U.S.C. 5123, 5143))

■ 92. Section 31.125 is revised to read as follows:

#### **§ 31.125 Carriers not engaged in passenger service.**

Except as provided in § 31.126, the retailing of liquor on any railroad train, aircraft, or boat that is not engaged in the business of carrying passengers is prohibited.

(72 Stat. 1344, 1347; 26 U.S.C. 5123, 5143)

■ 93. The heading and text of § 31.126 are revised to read as follows:

#### **§ 31.126 Supply boats or vessels.**

(a) *General.* Subject to paragraph (b) of this section, special tax stamps may be issued to persons carrying on the business of a retail dealer in liquor or a retail dealer in beer on supply boats or vessels operated by them, when such persons operate from a fixed address in a port or harbor and supply exclusively boats or other vessels, or persons thereon, at such port or harbor. Any person desiring to obtain a special tax stamp for such business shall file Form 5630.5, prepared in the manner prescribed in § 31.106(b), with any required remittance, and shall specify on the Form 5630.5, or on an attachment thereto: that the business will consist of supplying exclusively boats, vessels, or persons thereon; the name of the port or harbor at which the business is to be carried on; and the fixed address from which operations are to be conducted—*Provided*, That where such sales are to be made from two or more supply boats or vessels, the dealer shall obtain a

special tax stamp for each such boat or vessel, and shall, in addition to the information required above to be specified on the Form 5630.5 or attachment, specify on the Form 5630.5 the number of supply boats or vessels for which special tax is being paid (or for which registration is being made during the suspension period described in § 31.21(b)). A dealer may transfer any such stamp from any boat or vessel on which he discontinues such sales to any other boat or vessel on which he proposes to conduct such business, without registering the transfer with TTB. If the taxpayer operates from two or more fixed addresses, he shall prepare, as required by § 31.106(c), one tax return, Form 5630.5, to cover all such addresses and shall, in addition, show on the attachment to the Form 5630.5 the number of stamps to be procured for supply boats or vessels operating from each address. On receipt of the special tax stamps, the taxpayer shall designate an appropriate number of stamps for each location and shall type thereon the trade name, if different from the name in which the stamp was issued, and the fixed address of the business conducted at the location for which the stamps are designated. He shall then forward the stamps to the place of business designated on the stamps. The taxpayer shall enter on each stamp received for retailing liquors on supply boats or vessels, immediately after the occupational tax classification, the phrase “on supply boats” and in the lower margin the notation, “Covers supplying exclusively of boats or vessels, or persons thereon, at the Port (or Harbor) of” followed by the name of such port or harbor.

(b) *Suspension of tax.* During the suspension period described in § 31.21(b), the requirements of paragraph (a) of this section will apply except with regard to the payment of special (occupational) tax and the issuance of special tax stamps.

(72 Stat. 1344, 1347; 26 U.S.C. 5123, 5143)

■ 94. Section 31.127 is amended by revising the section heading, designating the existing text as paragraph (a), adding the heading “*General.*” to newly designated paragraph (a), removing the word “A” at the beginning of the first sentence of newly designated paragraph (a) and adding, in its place, the words “Subject to paragraph (b) of this section, a”, and adding a new paragraph (b) before the section authority citation to read as follows:

#### **§ 31.127 Retail dealers “At Large.”**

\* \* \* \* \*

(b) *Suspension of tax.* During the suspension period described in § 31.21(b), the requirements of paragraph (a) of this section will apply except with regard to the payment of special (occupational) tax and the issuance of special tax stamps.

\* \* \* \* \*

#### **§ 31.131 [Amended]**

■ 95. Section 31.131 is amended at the beginning by removing the word “A” and adding, in its place, the words “Except during the suspension period described in § 31.21(b) when no special tax stamps are issued, a”.

#### **§ 31.136 [Amended]**

■ 96. Section 31.136 is amended:  
 ■ a. In the first sentence, by adding after the words “paid special tax” the words “(or filed a return as a registration during the suspension period described in § 31.21(b))”;  
 ■ b. Also in the first sentence, by removing the word “taxable” and adding, in its place, the word “tax”; and  
 ■ c. Also in the first sentence, by adding after the words “for the total” the word “applicable”.

■ 97. In § 31.151, paragraph (a) is amended:

■ a. By designating the existing text as paragraph (a)(1);  
 ■ b. In the first sentence of newly designated paragraph (a)(1), by removing the word “A” and adding, in its place, the words “Subject to paragraph (a)(2) of this section, a”;  
 ■ c. Also in the first sentence of newly designated paragraph (a)(1), by removing the words “taxable period” and adding, in their place, the words “tax year”;

■ d. Also in the first sentence of newly designated paragraph (a)(1), by adding after the words “for which special tax was paid” the words “(or for which registration was completed during the suspension period described in § 31.21(b))”;

■ e. Also in the first sentence of newly designated paragraph (a)(1), by removing the words “and stated on the special tax stamp,”; and  
 ■ f. By adding a new paragraph (a)(2) to read as follows:

#### **§ 31.151 Amended return, Form 5630.5; endorsement on stamp.**

(a) \* \* \*

(2) If the change of location occurs during the suspension period described in § 31.21(b) when no tax is due and no special tax stamp is issued, the requirements of paragraph (a)(1) of this

section still apply, except with regard to surrendering the special tax stamp.

- \* \* \* \* \*
- 98. Section 31.152 is amended by designating the existing text as paragraph (a), removing the word "A" at the beginning of the first sentence of newly designated paragraph (a) and adding, in its place, the words, "Except as otherwise provided in paragraph (b) of this section, a", removing the words "special tax stamp" in the first sentence of newly designated paragraph (a) and adding, in their place, the words "Form 5630.5, Special Tax Registration and Return," and adding a new paragraph (b) before the section authority citation to read as follows:

**§ 31.152 Failure to register change of address within 30 days.**

- \* \* \* \* \*
- (b) During the suspension period described in § 31.21(b) when no tax is due and no special tax stamp is issued, a failure to register the change of address may result in a penalty under 26 U.S.C. 5603(b).

- \* \* \* \* \*
- 99. Section 31.161 is amended by revising the second sentence to read as follows:

**§ 31.161 Sale of business.**

\* \* \* Where a change occurs in the proprietorship of a business for which special tax has been paid or for which registration has been completed during the suspension period described in § 31.21(b), the successor shall pay special tax (or shall register during the suspension period) for such business, except as provided in § 31.169.

- \* \* \* \* \*
- 100. Section 31.162 is revised to read as follows:

**§ 31.162 Incorporation of business.**

Where an individual or a firm engaged in business requiring payment of special tax (or requiring registration during the suspension period described in § 31.21(b)) forms a corporation to take over and conduct the business, the corporation (a separate legal entity) shall pay special tax (or shall register during the suspension period) in its own name.

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

- 101. Section 31.163 is revised to read as follows:

**§ 31.163 New corporation.**

Where a new corporation is formed to take over and conduct the business of one or more corporations which have paid special tax (or which have

registered during the suspension period described in § 31.21(b)), the new corporation shall pay special tax (or shall register during the suspension period) in its own name.

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

**§ 31.164 [Amended]**

- 102. Section 31.164 is amended by adding after the words "tax stamp held" the words "(or a registration completed during the suspension period described in § 31.21(b))".

**§ 31.165 [Amended]**

- 103. Section 31.165 is amended by adding after the words "paid the special tax" the words "(or who has registered during the suspension period described in § 31.21(b))", and adding after the words "additional special tax" the words "(or to complete a new registration)".

**§ 31.166 [Amended]**

- 104. Section 31.166 is amended by adding after the words "Additional special tax" the words "(or additional registration during the suspension period described in § 31.21(b))".

**§ 31.167 [Amended]**

- 105. Section 31.167 is amended by adding after the words "Additional special tax" the words "(or additional registration during the suspension period described in § 31.21(b))".

**§ 31.168 [Amended]**

- 106. Section 31.168 is amended by adding after the words "Additional special tax" the words "(or additional registration during the suspension period described in § 31.21(b))".

**§ 31.169 [Amended]**

- 107. Section 31.169 is amended:
  - a. In the introductory text, by removing the words "other than the special taxpayer";
  - b. Also in the introductory text, by removing the words "taxable period" and adding, in their place, the words "tax year";
  - c. Also in the introductory text, by adding after the words "tax was paid" the words ", or for which registration was made during the suspension period described in § 31.21(b)"; and
  - d. In the concluding text, by adding after the words "the succession, and" the words "(except if the change of control occurs during the suspension period described in § 31.21(b) when a special tax stamp is not issued)".
- 108. Section 31.170 is amended by designating the existing text as

paragraph (a), removing the word "A" at the beginning of the first sentence of newly designated paragraph (a) and adding, in its place, the words "Except as otherwise provided in paragraph (b) of this section, a", and adding a new paragraph (b) before the section authority citation to read as follows:

**§ 31.170 Failure to perfect right of succession within 30 days.**

\* \* \* \* \*

(b) During the suspension period described in § 31.21(b) when no tax is due and no special tax stamp is issued, a failure to register the succession may result in a penalty under 26 U.S.C. 5603(b).

\* \* \* \* \*

**§ 31.181 [Amended]**

- 109. Section 31.181 is amended by adding at the end before the period the words ", or to the registration requirement during the suspension period described in § 31.21(b)".

**§ 31.182 [Amended]**

- 110. Section 31.182 is amended:
  - a. In the first sentence of paragraph (a), by adding after the words "pay special tax" the words "(or to register during the suspension period described in § 31.21(b))";
  - b. In the second sentence of paragraph (a), by adding after the words "exempt from special tax" the words "or registration";
  - c. In the second sentence of paragraph (b), by adding after the words "payment of special tax" the words "(or from registration during the suspension period described in § 31.21(b))"; and
  - d. In the last sentence of paragraph (b), by adding after the words "tax shall be paid" the words "(or registration shall be completed during the suspension period described in § 31.21(b))".

**§ 31.183 [Amended]**

- 111. Section 31.183 is amended:
  - a. In the first sentence of paragraph (a), by adding after the words "pay special tax" the words "(or to register during the suspension period described in § 31.21(b))";
  - b. In the second sentence of paragraph (a), by adding after the words "exempt from special tax" the words "or registration";
  - c. In the second sentence of paragraph (b), by adding after the words "exempt from special tax" the words "(or from registration during the suspension period described in § 31.21(b))";
  - d. In the last sentence of paragraph (b), by adding after the words "tax shall be paid" the words "(or registration

shall be made during the suspension period described in § 31.21(b)"; and

- e. In paragraph (c), by adding after the words "pay special tax" the words "(or to register during the suspension period described in § 31.21(b))".

#### **§ 31.183a [Amended]**

- 112. Section 31.183a is amended:
- a. In the first sentence of paragraph (a), by adding after the words "(including such tax under the transition rule of § 31.103(b))" the words ", and no such proprietor shall be required to register during the suspension period described in § 31.21(b);"
- b. In the last sentence of paragraph (a), by adding after the words "exempt from special tax" the words "or registration";
- c. In the second sentence of paragraph (b), by adding after the words "exempt from special tax" the words "(or from registration during the suspension period described in § 31.21(b))";
- d. In the last sentence of paragraph (b), by adding after the words "tax shall be paid" the words "(or registration shall be completed during the suspension period described in § 31.21(b))"; and
- e. In paragraph (c), by adding after the words "pay special tax" the words "(or to register during the suspension period described in § 31.21(b))".

#### **§ 31.184 [Amended]**

- 113. Section 31.184 is amended:
- a. In the first sentence of paragraph (a), by adding after the words "pay special tax" the words "(or to register during the suspension period described in § 31.21(b))";
- b. In the last sentence of paragraph (a), by adding after the words "exempt from special tax" the words "or registration";
- c. In the second sentence of paragraph (b), by adding after the words "exempt from special tax" the words "(or from registration during the suspension period described in § 31.21(b))";
- d. In the last sentence of paragraph (b), by adding after the words "tax shall be paid" the words "(or registration shall be completed during the suspension period described in § 31.21(b))"; and
- e. In paragraph (c), by adding after the words "pay special tax" the words "(or to register during the suspension period described in § 31.21(b))".

#### **§ 31.185 [Amended]**

- 114. Section 31.185 is amended:
- a. In paragraph (a), by adding after the words "paid special tax" the words "(or who has registered during the suspension period described in § 31.21(b))";

- b. Also in paragraph (a), by adding after the words "additional special tax" the words "or register";
- c. In paragraph (b), by adding after the words "paid the tax" the words "(or who has registered during the suspension period described in § 31.21(b))"; and
- d. Also in paragraph (b), by adding after the words "additional special tax" the words "or register".

#### **§ 31.186 [Amended]**

- 115. Section 31.186 is amended by adding after the words "paid special tax" the words "(or who has registered during the suspension period described in § 31.21(b))", and adding after the words "additional special tax" the words "or register".

#### **§ 31.187 [Amended]**

- 116. Section 31.187 is amended by adding after the words "pay special tax," the words "or to register during the suspension period described in § 31.21(b)."

#### **§ 31.187a [Amended]**

- 117. Section 31.187a is amended by adding at the end before the period the words ", or to register during the suspension period described in § 31.21(b)".

#### **§ 31.188 [Amended]**

- 118. In § 31.188, the concluding text is amended by removing the comma after the words "pay special tax" and adding, in its place, the words "(or to register during the suspension period described in § 31.21(b))".

#### **§ 31.189 [Amended]**

- 119. Section 31.189 is amended:
- a. In the first sentence of the concluding text, by adding at the end before the period the words "or to register during the suspension period described in § 31.21(b)"; and
- b. In the second sentence of the concluding text, by adding after the words "pay special tax" the words "(or to register during the suspension period described in § 31.21(b))".

#### **§ 31.190 [Amended]**

- 120. Section 31.190 is amended by adding after the words "pay special tax" the words "(or to register during the suspension period described in § 31.21(b))".

#### **§ 31.191 [Amended]**

- 121. In § 31.191, paragraph (b) is amended by adding after the words "pay special tax" the words "(or shall register during the suspension period described in § 31.21(b))".

- 122. In § 31.211:
  - a. The introductory text of paragraph (a) is amended at the beginning by removing the word "It" and adding, in its place, the words "Except as otherwise provided in paragraphs (b) and (c) of this section, it";
  - b. Paragraph (b) is redesignated as paragraph (c); and
  - c. A new paragraph (b) is added to read as follows:

#### **§ 31.211 Unlawful purchases of distilled spirits.**

\* \* \* \* \*

(b) *Suspension of tax.* During the period of suspension of special (occupational) tax described in § 31.21(b), it is unlawful for any dealer to purchase distilled spirits for resale from any person other than:

(1) A wholesale dealer (including a State, a political subdivision thereof, the District of Columbia, and a distilled spirits plant) who is required to keep records under §§ 31.221 through 31.233 at the place where the distilled spirits are purchased;

(2) A retail liquor store operated by a State, a political subdivision thereof, or the District of Columbia; or

(3) A person not required to register as a wholesale liquor dealer, as provided in §§ 31.188 through 31.190, § 31.192, and § 31.193.

\* \* \* \* \*

Dated: July 6, 2005.

**John J. Manfreda,**  
Administrator.

Approved: September 14, 2005.

**Timothy E. Skud,**  
Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

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## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

#### **33 CFR Part 117**

**[CGD01-05-074]**

**RIN 1625-AA09**

#### **Drawbridge Operation Regulations: Saugus River, MA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard has temporarily changed the drawbridge operation regulations that govern the operation of the General Edwards SR1A Bridge, at mile 1.7, across the Saugus