

*What Every Member of the
Trade Community Should Know About:*

Classification and Entry Requirements of Alcoholic Beverages and Spirits



AN INFORMED COMPLIANCE PUBLICATION

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U.S. CUSTOMS and BORDER PROTECTION

NOTICE:

This publication is intended to provide guidance and information to the trade community. It reflects the position on or interpretation of the applicable laws or regulations by U.S. Customs and Border Protection (CBP) as of the date of publication, which is shown on the front cover. It does not in any way replace or supersede those laws or regulations. Only the latest official version of the laws or regulations is authoritative.

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PREFACE

On December 8, 1993, Title VI of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), also known as the Customs Modernization or “Mod” Act, became effective. These provisions amended many sections of the Tariff Act of 1930 and related laws.

Two new concepts that emerge from the Mod Act are “informed compliance” and “shared responsibility,” which are premised on the idea that in order to maximize voluntary compliance with laws and regulations of U.S. Customs and Border Protection, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the Mod Act imposes a greater obligation on CBP to provide the public with improved information concerning the trade community's rights and responsibilities under customs regulations and related laws. In addition, both the trade and U.S. Customs and Border Protection share responsibility for carrying out these requirements. For example, under Section 484 of the Tariff Act, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify and determine the value of imported merchandise and to provide any other information necessary to enable U.S. Customs and Border Protection to properly assess duties, collect accurate statistics, and determine whether other applicable legal requirements, if any, have been met. CBP is then responsible for fixing the final classification and value of the merchandise. An importer of record's failure to exercise reasonable care could delay release of the merchandise and, in some cases, could result in the imposition of penalties.

Regulations and Rulings (RR) of the Office of International Trade has been given a major role in meeting the informed compliance responsibilities of U.S. Customs and Border Protection. In order to provide information to the public, CBP has issued a series of informed compliance publications on new or revised requirements, regulations or procedures, and a variety of classification and valuation issues.

This publication, prepared by the National Commodity Specialist Division of Regulations and Rulings is entitled Classification and Entry Requirements of Alcoholic Beverages and Spirits. It provides guidance regarding the classification of these items. We sincerely hope that this material, together with seminars and increased access to rulings of U.S. Customs and Border Protection, will help the trade community to improve voluntary compliance with customs laws and to understand the relevant administrative processes.

The material in this publication is provided for general information purposes only. Because many complicated factors can be involved in customs issues, an importer may wish to obtain a ruling under Regulations of U.S. Customs and Border Protection, 19 C.F.R. Part 177, or to obtain advice from an expert who specializes in customs matters, for example, a licensed customs broker, attorney or consultant.

Comments and suggestions are welcomed and should be addressed to the Executive Director, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, (Mint Annex), Washington, D.C. 20229.

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INTRODUCTION

Alcoholic beverages and spirits are classified in Chapter 22 of the Harmonized Tariff Schedules of the United States (HTSUS). Note 3 to Chapter 22 provides a definition for non-alcoholic beverages. It states: “For purposes of heading 2202 the term “nonalcoholic beverages” means beverages of an alcoholic strength by volume not exceeding 0.5 percent vol...” Therefore, for classification purposes under the HTSUS, **an alcoholic beverage contains an alcoholic strength by volume over 0.5 percent.** The term “alcohol” refers to **ethyl alcohol** or **ethanol**.

Products containing over 0.5 percent alcohol by volume are classified under the following headings in Chapter 22: **2203, 2204, 2205, 2206, 2207** and **2208**.

Headings **2203, 2204, 2205 and 2206** are for alcoholic beverages produced by **fermentation**. Fermentation is the conversion of sugar in a product by the action of yeast into ethyl alcohol and carbon dioxide gas.

Headings **2207 and 2208** provide for spirits and alcoholic beverages produced by **distillation**. Distillation is a means of separating two liquids through differences in their boiling points. A fermented liquid is heated until the alcohol vaporizes and can be drawn off, cooled and condensed back into a liquid.

HEADING 2203

Heading 2203 provides for **beer made from malt**. The Explanatory Notes (ENs) to the Harmonized Commodity Description and Coding System, represent the official interpretation of the tariff at the international level, and provide guidance in understanding the scope of the headings of the HTSUS. The ENs, in reference to heading 2203 state: “Beer is an alcoholic beverage obtained by fermenting a liquor (wort) prepared from malted barley or wheat, water and (usually) hops. Certain quantities of non-malted cereals (e.g., maize (corn) or rice) may also be used for the preparation of the liquor (wort). The addition of hops imparts a bitter and aromatic flavour and improves the keeping qualities. Cherries or other flavouring substances are sometimes added during fermentation. Sugar (particularly glucose), colouring matter, carbon dioxide and other substances may also be added.”

The ENs also advise that heading 2203 covers ale, stout, etc., and concentrated beer.

The ENs reference three types of products, which are not classified under heading 2203. These include:

(a) Certain beverages which, although they are sometimes described as beers, do not contain alcohol (e.g., beverages prepared from water and caramelized sugar) (**heading 22.02**).

(b) Beverages called non-alcoholic beer consisting of beer made from malt, the alcoholic strength of which by volume has been reduced to 0.5% vol. or less (**heading 22.02**).

(c) Medicaments of **heading 30.03** or **30.04**.

Heading 22.02 referenced in items (a) and (b) above is the heading for the classification of non-alcoholic beverages.

HEADING 2204

Heading 2204 provides for **wine of fresh grapes, including fortified wines; grape must other than that of heading 2009**. The heading provides for wines produced from fresh grapes. It does not include wines produced from any other fruits or products. There are four main types of wines included under this heading: **sparkling, effervescent, table or ordinary, and fortified**.

Sparkling wine, which is classified in **subheading 2204.10.00, HTSUS**, is defined in **Subheading Note 1 to Chapter 22**, which states: "For the purposes of subheading 2204.10 the expression 'sparkling wine' means wine which, when kept at a temperature of 20 degrees C in closed containers, has an excess pressure of not less than 3 bars." The most common type of sparkling wine would be Champagne.

Effervescent wine, which is classified in subheading **2204.21.20, HTSUS**, is defined in **Additional U.S. Note 4 to Chapter 22**, which states: "The term 'effervescent wine' means wine other than sparkling wine which contains in excess of 0.392 grams of carbon dioxide per 100 milliliters of wine." The effervescent wines of **subheading 2204.21.20, HTSUS**, are in containers holding 2 liters or less.

Sparkling and effervescent wines both contain carbon dioxide, however, **sparkling wine is determined by pressure**, while **effervescent wine is determined by the quantity of the carbon dioxide**. If a wine contains an excess pressure of less than 3 bars, and is, therefore, not sparkling, it may still contain in excess of 0.392 grams of carbon dioxide per 100 milliliters, and be classified as effervescent.

Ordinary or Table wine, is classified in subheadings **2204.21.30, HTSUS**, and **2204.21.50, HTSUS** and includes wines such as red, white, rose, which are not sparkling and not effervescent. These wines are designated as "still" because they contain less than 0.392 grams of carbon dioxide per 100 milliliters of wine.

Subheading 2204.21.30, HTSUS, is the specific provision for “Tokay” wine in containers holding 2 liters or less and containing an alcoholic strength by volume of not over 14 percent.

The wines of **subheading 2204.21.50, HTSUS**, are in containers of **2 liters or less**, contain an **alcoholic strength by volume of not over 14 percent vol**, and are further broken out by their **value per liter** (valued not over \$1.05 per liter, or valued over \$1.05 per liter), and by their **wine color**, red, white or other. It is also noted that effective with the 2003 Harmonized Tariff, there is a separate statistical breakout for icewine. (2204.21.5028, HTSUS).

Fortified wine (also known as Dessert wine) is classified in **subheadings 2204.21.60, HTSUS, and 2204.21.80, HTSUS**. These are wines made from grapes, which contain an **alcoholic strength by volume over 14 percent vol**. The alcohol content has usually been increased by the addition of grape brandy. The wines of these subheadings are in **containers holding 2 liters or less**. Subheading 2204.21.60, HTSUS is the specific provision for “Marsala”, and subheading 2204.21.80, HTSUS provides for other wines with over 14 percent alcohol by volume. These would include Sherry, Port, Madeira, etc.

The next four subheadings under heading 2204 provide for various wines produced from grapes in containers over 2 liters.

Subheading 2204.29.20, HTSUS, refers to containers **holding over 2 liters but not over 4 liters**, with an **alcoholic strength by volume of not over 14 percent vol**. They are further broken out by their **value per liter** (valued not over \$1.05 per liter, or valued over \$1.05 per liter), and by their **wine color**, red, white or other.

Subheading 2204.29.40, HTSUS, refers to containers holding **over 2 liters but not over 4 liters**, with an **alcoholic strength by volume of over 14 percent vol**. These would include fortified products in the larger size containers.

Subheading 2204.29.60, HTSUS, refers to containers holding **over 4 liters**, with an **alcohol strength by volume of not over 14 percent vol**.

Subheading 2204.29.80, HTSUS refers to containers holding **over 4 liters**, with an **alcoholic strength by volume over 14 percent vol**.

Noting the above subheadings for wine under heading 2204, the following information should be included on invoice descriptions, and requests for rulings: the pressure in bars, the carbon dioxide content, the container size in liters, the alcohol content, the value per liter, the type of wine (red, white, Sherry, Port, etc.).

Subheading 2204.30.00, HTSUS, which provides for **other grape must**, is the last subheading under heading 2204. The ENs to heading 2204 state the following concerning grape must: “Grape must, obtained by pressing fresh grapes, is a greenish-

yellow, cloudy liquid with a sweet flavour. It contains in solution a mixture of sugars (glucose and fructose), acids (tartaric, malic, etc.), albuminous, minerals and mucilaginous substances and the aromatic principles which give the wine its characteristic aroma and flavour.”

Grape must is only classified under subheading 2204.30.00, HTSUS, if it contains **over 0.5 percent** alcohol by volume. Grape must or grape juice, containing **not over 0.5 percent alcohol by volume** is classified in chapter 20 under **heading 2009**, assuming it has not been processed beyond a juice.

Chapter Note 1 (a) indicates that Chapter 22 does not cover “Products of this chapter (other than those of heading 2209) prepared for culinary purposes and thereby rendered unsuitable for consumption as beverages (generally heading 2103).” It is noted that the reference to heading 2209 pertains to vinegar, which is also classified in Chapter 22.

Products excluded from Chapter 22 by Chapter Note 1(a) are products of Chapter 22, except for vinegar and vinegar substitutes, that contain components, such as spices, seasonings, etc., which because of their nature or quantity, make the product suitable for use as an ingredient for flavoring, and not suitable for direct consumption as a beverage.” Cooking wine is an example of such a product excluded by Note 1(a). **Cooking Wine** is not classified under heading 2204, or elsewhere in Chapter 22. The applicable subheading for Cooking Wine is 2103.90.8000.

In the case of wine containing added **salt**, Customs has a practice of using **greater than 1.5 grams of salt per 100 milliliters of wine** as being unsuitable for consumption as a beverage (27 CFR 24.215). Products containing other added ingredients are handled on a case by case basis.

HEADING 2205

Heading 2205 provides for **Vermouth and other wine of fresh grapes flavored with plants or aromatic substances**. The heading applies to wine produced from fresh grapes. It does not include wine produced from any other fruit or product. In addition, the grape wine must be flavored.

The ENs indicate: “This heading includes a variety of beverages (generally used as aperitives or tonics) made with wine of fresh grapes of heading 22.04, and flavoured with infusions of plant substances (leaves, roots, fruits, etc.) or aromatic substances.”

Wine produced from grapes and mixed with fruit juice is not classified in heading 2205 (see heading 2206).

HEADING 2206

Heading 2206 provides for **other fermented beverages (for example, cider, perry, mead); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included.**

Heading 2206 provides for fermented products, which are not classified as beer from malt, wine from grapes, vermouth and wine from grapes flavored with plants or aromatic substances.

The ENs to heading 2206 indicate that “This heading also covers mixtures of non-alcoholic beverages and fermented beverages and mixtures of fermented beverages of the foregoing headings of Chapter 22, e.g., mixtures of lemonade and beer or wine, mixtures of beer and wine, having an alcoholic strength by volume exceeding 0.5 % vol.”

Heading 2206 contains four subheadings, which refer to specific types of fermented beverages.

Subheading 2206.00.15, HTSUS is the specific provision for **Cider, whether still or sparkling.** The term “cider” pertains to fermented products produced from apples. It does not, for example, refer to pear cider, or perry. The cider of this subheading must contain over 0.5 percent alcohol by volume. Ciders with less alcohol are classified in heading 2009 or 2202, depending on the processing and ingredients. The term “sparkling” means effervescent in this context. Note that the definition of sparkling in **Subheading Note 1** to Chapter 22 **relates only to subheading 2204.10, HTSUS.**

Subheading 2206.00.30, HTSUS, is the specific provision for **prune wine.**
Subheading 2206.00.45, HTSUS, is the specific provision for **Rice wine or sake.**

Subheading 2206.00.60, HTSUS, provides for **other effervescent wine.** The term “effervescent” has the same meaning as defined in **Additional U.S. note 4 to Chapter 22**, which requires in excess of 0.392 grams of carbon dioxide per 100 milliliters of wine.

All other fermented beverages and various mixtures containing fermented beverages are provided for in **subheading 2206.00.90, HTSUS.** The ENs to heading 2206 provide that fermented beverages “remain classified in the heading when fortified with added alcohol or when the alcohol content has been increased by further fermentation, provided that they retain the character of products falling in the heading.”

Headquarters ruling HQ 953125 dated April 26, 1993 gives guidance as to the type of product classified under subheading 2206.00.00, HTS. This ruling concerned the classification of a product known as “**Golden Fizz Mimosa.**” The merchandise

consisted of white wine, orange juice, natural flavor, carbon dioxide and sulfites. The alcohol content was 6 percent by volume. The product was imported in 750 milliliter bottles.

Headquarters rejected classification under heading 2205 and stated: "Heading 2205, HTSUS, provides for: 'Vermouth and other wine of fresh grapes flavored with plants or aromatic substances.' The Explanatory Notes to the Harmonized Commodity Description and Coding System (EN), a guideline for use in determining classification under HTSUS, states that heading 2205 'includes a variety of beverages (generally used as aperitifs or tonics) made with wine of fresh grapes of heading 2204, and flavored with infusions of plant substances (leaves, roots, fruits, etc.) or aromatic substances.' There is no mention of fruit juice and we would not consider a fruit juice to be plant substances such as leaves, roots, fruits, etc., or as an aromatic substance."

Classification under heading 2206 was explained as follows: "Heading 2206, HTSUS provides for other fermented beverages (for example, cider, perry, mead); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included. Since the instant product consists of a mixture of white wine and orange juice it is *prima facie* covered by the language of heading 2206."

HEADING 2207

Heading 2207 provides for **undenatured ethyl alcohol of an alcoholic strength by volume of 80 percent vol. or higher; ethyl alcohol and other spirits, denatured, of any strength.**

Heading 2207 begins the classification of alcoholic products of chapter 22, which are produced by **distillation**. The heading includes three subheadings.

Subheading 2207.10.30, HTSUS provides for undenatured ethyl alcohol of an alcoholic strength by volume of 80 percent or higher for beverage purposes.

Subheading 2207.10.60, HTSUS, provides for undenatured ethyl alcohol of an alcoholic strength by volume of 80 percent or higher for nonbeverage purposes.

Subheading 2207. 20.00, HTSUS, provides for ethyl alcohol and other spirits, denatured, of any strength.

Subheadings 2207.10.60 and 2207.20.00, HTSUS, pertain to **nonbeverage** uses of ethyl alcohol and are not within the purview of this publication.

The ENs for heading 2207 state: "Ethyl alcohol is the alcohol which occurs in beer, wine, cider and other alcoholic beverages. It is obtained either by fermentation of

certain kinds of sugar by means of yeast or other ferments and subsequent distillation, or synthetically.

...

This heading also covers **neutral spirits**, i.e. ethyl alcohol containing water from which the secondary constituents (higher alcohols, esters, aldehydes, acids, etc.) present in the first distillate have been almost completely removed by fractional distillation."

It is important to note that the ethyl alcohol and neutral spirits classified in heading 2207 must be of **an alcoholic strength by volume of 80 percent or higher**.

HEADING 2208

Heading 2208 provides for **undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 percent vol.; spirits, liqueurs and other spirituous beverages**.

The ENs indicate that heading 2208 provides for the following:

This heading covers, **whatever their alcoholic strength**:

- (A) **Spirits** produced by distilling wine, cider or other fermented beverages or fermented grain or other vegetable products, without added flavouring, they retain, wholly or partly, the secondary constituents (esters, aldehydes, acids, higher alcohols, etc.) which give the spirits their peculiar individual flavours and aromas.
- (B) **Liqueurs** and **cordials** being spirituous beverages to which sugar, honey or other natural sweeteners and extracts or essences have been added (e.g., spirituous beverages produced by distilling, or by mixing ethyl alcohol or distilled spirits, with one or more of the following: fruits, flowers or other parts of plants, extracts, essences, essential oils or juices, whether or not concentrated). These products also include liqueurs and cordials containing sugar crystals, fruit juice liqueurs, egg liqueurs, herb liqueurs, berry liqueurs, spice liqueurs, tea liqueurs, chocolate liqueurs, milk liqueurs and honey liqueurs.
- (C) **All other spirituous beverages not falling** in any preceding heading of this Chapter.

Provided that their alcoholic strength by volume is less than 80% vol, the heading also covers undenatured spirits (ethyl alcohol and neutral spirits) which, contrary to those at (A), (B) and (C) above, are characterized by the absence of

secondary, constituents giving a flavour or aroma. These spirits remain in the heading whether intended for human consumption or for industrial purposes.

Headquarters ruling HQ 086612 dated June 4, 1990 gives guidance regarding the types of products, which are classified as spirits. This ruling concerned the classification of four products (rum, pear brandy, kirsch and framboise) described as drinkable, colorless, aqueous liquids having an alcoholic strength of less than 80 percent but greater than 50 percent by volume. The items were produced by distilling the fermented mash of vegetable products. The rum was produced by distilling the fermented mash of sugar cane. The pear brandy was produced by distilling the fermented mash of pears. The kirsch was produced by distilling the fermented mash of cherries, and the framboise was produced by distilling the fermented mash of raspberries. Each of the items was used as a preparation in items such as cakes, batters, candy fillings, etc.

Headquarters stated: "The Explanatory Notes to Heading 2208 state, in part, that Heading 2208 'covers, whatever their alcoholic strength...spirits produced by distilling...fermented beverages or fermented grain or other vegetable products...without adding flavouring' and, '[p]rovided that their alcoholic strength by volume is less than 80...[percent by volume]...undenatured spirits (ethyl alcohol...) which...are characterised by the absence of secondary constituents giving a flavour or aroma....' The products were classified in heading 2208.

Headquarters concluded: "The composition of the above-described goods (i.e., drinkable alcoholic liquids produced by distilling fermented products) and the level of alcohol in the liquids (i.e., exceeding 0.5% by volume) precludes the goods from being classified under a heading in the HTSUSA other than that which provides for spirits...."

Items (B) Liqueurs and cordials and (C) all other spirituous beverages, listed in The ENs for heading 2208 refer to products, which are **intended for consumption as beverages**. They are not, for example, ingredients used in the manufacture of beverages, which are generally provided for in **Chapter 21** of the HTS.

Heading 2208 also provides for undenatured ethyl alcohol and neutral spirits, which contain an alcoholic strength by volume of less than 80 percent volume. These products can be distinguished from those of heading 2207, which contain an alcoholic strength by volume of 80 percent volume or higher.

The following table shows heading 2208 and its subheadings:

2208.20		Spirits obtained by distilling grape wine or grape marc (grape brandy)
2208.20.10	00	Pisco and singani
		Other:
2208.20.20	00	In containers each holding not over 4 liters: Valued not over \$2.38/liter
2208.20.30	00	Valued over \$2.38 but not over \$3.43/liter
2208.20.40	00	Valued over \$3.43/liter
		In containers each holding over 4 liters:
2208.20.50	00	Valued not over \$2.38/liter
2208.20.60	00	Valued over \$2.38.liter
2208.30		Whiskies:
2208.30.30		Irish and Scotch
	30	In containers each holding not over 4 liters
	60	In containers each holding over 4 liters
2208.30.60		Other
		Bourbon:
	20	In containers each holding not over 4 liters
	40	In containers each holding over 4 liters
		Other:
		In containers each holding not over 4 liters
	55	Rye
	65	Other
		In containers each holding over 4 liters
	75	Rye
	85	Other
2208.40		Rum and other spirits obtained by distilling fermented sugar-cane products:
2208.40.20	00	In containers each holding not over 4 liters Valued not over \$3 per proof liter
2208.40.40	00	Valued over \$3 per proof liter

2208.40.60	00	In containers each holding over 4 liters Valued not over 69 cents per proof liter
2208.40.80	00	Valued over 69 cents per proof liter
2208.50.00		Gin and Geneve:
	30	In containers each holding not over 4 liters
	60	In containers each holding over 4 liters
2208.60		Vodka:
		In containers each holding not over 4 liters
2208.60.10	00	Valued not over \$2.05/liter
2208.60.20	00	Valued over \$2.05/liter
2208.60.50	00	In containers each holding over 4 liters
2208.70.00		Liqueurs and cordials:
	30	In containers each holding not over 4 liters
	60	In containers each holding over 4 liters
2208.90		Other:
2208.90.01	00	Aquavit
		Bitters:
2208.90.05	00	Not fit for use as beverages
2208.90.10	00	Fit for use as beverages
		Brandy:
		Slivovitz:
		Valued not over \$3.43/liter:
2208.90.12	00	In containers each holding not over 4 liters
		In containers each holding over 4 liters
2208.90.14	00	In containers each holding over 4 liters
2208.90.15	00	Valued over \$3.43/liter
		Other:

2208.90.20	00	In containers each holding not over 4 liters Valued not over \$2.38/liter
2208.90.25	00	Valued over \$2.38 but not over \$3.43/liter
2208.90.30	00	Valued over \$3.43/liter
2208.90.35	00	In containers each holding over 4 liters Valued not over \$2.38/liter
2208.90.40	00	Valued over \$2.38/liter
2208.90.46		Kirschwasser and ratafia:
	30	In containers each holding not over 4 liters
	60	In containers each holding over 4 liters
		Tequila:
2208.90.50	00	In containers each holding not over 4 liters
2208.90.55	00	In containers each holding over 4 liters
2208.90.71	00	Imitations of brandy and other spirituous beverages
		Other:
		Spirits:
2208.90.72	00	Mezcal in containers each holding not over 4 liters
2208.90.75	00	Other
2208.90.80	00	Other

In order to classify in the above subheadings, it is necessary to have information on the **percentage of ingredients by weight** in the product, the **percentage of alcohol by volume**, the **manufacturing process**, the **container size**, and in many cases the **value per liter**.

There is certain information, which should be noted for several of the heading 2208 subheadings.

Subheading 2208.20, HTS, provides for Spirits obtained by distilling **grape wine or grape marc (grape brandy)**. Products such as **Cognac** and **Armagnac** are classified in this subheading. They are not classified in subheadings 2208.90.20, HTSUS to 2208.90.40, HTSUS, which provide for other “brandy.” The brandy of subheading 2208.90, HTS, covers products distilled from fruits other than grape.

A spirituous beverage imported directly from **Canada** under **subheadings 2208.40 or 2208.90, HTS**, is entitled to duty free treatment under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(a)(6)), if the spirituous beverage has been produced in the territory of Canada from rum provided the following conditions are met:

- (1) the rum must be the growth, product, or manufacture either of a beneficiary country or of the U.S. Virgin Islands;
- (2) The rum was imported directly into the territory of Canada from a beneficiary country or from the U.s. Virgin Islands;
- (3) the rum accounts for at least 90 percent of the alcoholic content by volume of the spirituous beverage.

Claims for duty exemption are made by entering the spirituous beverage under **subheading 9817.22.05, HTSUS**.

Additional information can be obtained from **The Code of Federal Regulations, Title 19, Part 10.199**.

Subheading 2208.60, HTS, provides for **vodka**. It should be noted that vodkas containing added flavoring are also classified in this subheading.

Subheading 2208.90.80, HTSUS, provides for **other spirituous beverages**. Some of the types of products classified in this subheading would include fruit juices with added spirits, prepared cocktails such as a Bloody Mary, Gin and Tonic, etc.

FEDERAL EXCISE TAXES

In addition to any Custom’s duties, the alcoholic beverages and spirits of chapter 22 are subject to various **Federal Excise Taxes** as noted below:

BEER	\$18 per Barrel (31 Gallons)
RICE WINE OR SAKE	\$18 per Barrel (31 Gallons)
STILL WINE NOT OVER 14% ALCOHOL	\$1.07 per Wine Gallon
STILL WINE OVER 14%, N/O 21% ALCOHOL	\$1.57 per Wine Gallon

STILL WINE OVER 21%, N/O 24% ALCOHOL	\$3.15 per Wine Gallon
ARTIFICIALLY CARBONATED WINE	\$3.30 per Wine Gallon
CHAMPAGNE AND SPARKLING WINE	\$3.40 per Wine Gallon
HARD CIDER	22.6 ¢ per Wine Gallon
DISTILLED SPIRITS	\$13.50 per Proof Gallon

Effective January 25, 2002, the Internal Revenue Code (26 U.S.C) was amended to create a special wine excise category for hard cider (subheading 2206.00.1500, HTSUS). The rate is 22.6 cents per wine gallon. To summarize, the definition of "Hard Cider" subject to the lower rate is a **still wine derived primarily from apples or apple concentrate and water**, containing **no other fruit product nor any artificial product which imparts a fruit flavor other than apple**, containing **at least one-half of 1 percent and less than 7 percent alcohol by volume**. If a cider does not meet this definition, it is taxed under the normal rates for wine (\$1.07, \$1.57, \$3.30, etc.).

COMPUTING PROOF LITERS/ GALLONS

The term "proof" is used to describe the strength of spirits and alcoholic beverages

Additional U.S. Note 5 to chapter 22 provides: "Where in heading 2204, 2206, 2207 or 2208, the rates shown in the rates of duty columns are in terms of a proof liter, proof liter shall mean a liter of liquid at 15.56°C (60°F) which contains 50 percent (100 proof) by volume of ethyl alcohol having a specific gravity of 0.7939 at 15.56°C (60°F) referred to water at 15.56°C (60°F) as unity or the alcoholic equivalent thereof."

Noting the above, a 100 proof spirit or beverage contains 50 percent alcohol by volume at a temperature of 60 degrees Fahrenheit. Each degree of proof is equal to ½ percent alcohol.

To determine proof liters or gallons: take the number of liters/gallons and multiply by the proof converted to a decimal.

EXAMPLE 1: 100 liters at 80° proof.
80° proof is .80
100 liters X .80 equals **80 proof liters**.

EXAMPLE 2: 200 gallons containing 45% alcohol by volume
45% alcohol is 90° proof
90° proof is .90
200 gallons X .90 equals **180 proof gallons**

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU (TTB)

The Alcohol and Tobacco Tax and Trade Bureau administers and enforces the Federal laws and tax code provisions related to alcohol and tobacco products.

The Federal Alcohol Administration Act (FAA) requires that anyone wishing to import alcoholic beverages into the United States for the purpose of resale must first obtain an **Importer's Basic Permit** from the Tax and Trade Bureau (TTB). Note the Code of Federal Regulations, Title 27, Part 1.

Alcoholic beverages imported into the United States for resale, or other commercial purposes, must conform to the United States labeling regulations. All importers must obtain a **Certificate of Label Approval (COLA), TTB Form 5100.31**. Note the Code of Federal Regulations, Title 27, Parts 4, 5 and 7.

Wines containing less than 7 percent alcohol by volume are not covered by the labeling requirements of the FAA Act, and are subject to the labeling provisions of the Federal Food, Drug, and Cosmetic Act.

All alcoholic beverages, which were bottled on or **after November 18, 1989**, require the following **Health Warning Statement**: "Government Warning: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects, (2) Consumption of alcoholic beverages impairs your ability to drive a car, or operate machinery, and may cause health problems." Note the Code of Federal Regulations, Title 27, Part 16.

Certain wines and distilled spirits imported into the United States have **Country of Origin Certification Requirements**. The countries requiring certificates for wine and/or spirits include: Bulgaria, Canada, France, Germany, Ireland, Jamaica, Mexico, Portugal, Romania, Spain and the United Kingdom. Note the Code of Federal Regulations, Title 27, Parts 4.45 and 5.52. T.T.B. Industry Circular 2007-3 (June 29, 2007).

Under sections of the Code of Federal Regulations, Title 27, Part 27, **samples of alcoholic beverages** for use at trade shows or for soliciting orders as well as samples for laboratory analysis and testing may be exempt from **Certificate of Label Approval**. **Country of Origin Certificates** are required from those countries which issue such certificates. A request for waiver from Certificate of Label Approval must be submitted to TTB prior to seeking release of the imported samples from Customs' custody. An explanation of this procedure along with a 'template' guide for the letter request can be found on TTB's website at <http://www.ttb.gov>. Approval of waiver requests is contingent upon the following conditions:

1. The importer has an Importer's Basic Permit
2. All taxes and duties are paid
3. Sample bottles are marked "For Trade Show (or Sample) Purposes Only-Not for Sale"
4. Sample Bottles contain the Health Warning Label

5. Wines must also be labeled "Contains Sulfites"
6. Samples must have all of the above markings prior to arrival at CBP premises from the foreign source.

Importations of alcoholic beverages for **personal use** do not require an **Importer's Basic Permit, Certificate of Label Approval, or a Certificate of Origin**. It is noted that all duties and taxes must be paid. The Alcohol and Tobacco Tax and Trade Bureau and Customs and Border Protection both have jurisdiction in deciding whether a shipment is for personal use. There is no set quantity amount that determines if a shipment is for personal use. Shipments are evaluated on a case by case basis. Individuals should consult with the Customs officials at the port of entry.

In addition to the Federal requirements, importers must be in compliance with the **state laws** into which the alcoholic beverage is being imported.

Information on the above topics, and any additional requirements for importing alcoholic beverages can be obtained by contacting the **TTB** at:

Alcohol and Tobacco Tax and Trade Bureau
International Trade Division
1310 G St. N.W., Suite 400W
Washington, D.C. 20220
Tel# 202-927-8110
Fax# 202-435-7020

Information is also available at the **TTB web site: <http://www.ttb.gov>**.

ALCOHOLIC BEVERAGE GIFT BOXES

Alcoholic beverages are sometimes packaged in gift boxes with various other products for sale at retail. In order to classify this type of merchandise, it must be determined whether the packaged products are a set.

The classification of sets is determined by General Rule of Interpretation (GRI) 3. GRI 3(b) provides that composite goods and goods in sets become classifiable as if they consisted wholly of the material or component which gives them their essential character. The Explanatory Notes for GRI 3(b) state that the goods put up in sets for retail sale are those which consist of at least two different articles which are classifiable in different headings; consist of products or articles put up together to meet a particular need or carry out a specific activity; and are put up in a manner suitable for sale directly to users without repacking .

There are several rulings, which give guidance on the classification of alcoholic beverages packaged with various items.

Headquarters ruling HQ 085326 dated September 22, 1989 concerned the classification of a **50 milliliter bottle of Irish Mist Liqueur** valued at \$1.65 **packaged with one small glass**, and a **375 milliliter bottle of Irish Mist Liqueur** valued at \$3.91 **packaged with two small glasses**. The glasses cost 31 cents each.

Headquarters stated: "The Irish Mist Liqueur and the glasses are classified in two different headings. The liqueur is classified as a liqueur in Heading 2208, HTSUSA, and the glasses are classified as such in Heading 7013, HTSUSA.

The liqueur and the glasses are put up together for the specific purpose of drinking liqueur.

Both gift sets will be sold in their imported condition to retail consumers without repacking. The instant merchandise thus meets all the requirements of a set.

Once it has been established that the instant merchandise is a set, GRI 3(b) indicates that the goods are to be classified according to the material or component, which gives them their essential character. The Explanatory Notes state that factors such as bulk, quantity, weight and value may be considered in determining the essential character...The relative prices of the two components indicate that the purchaser is buying the gift sets for the liqueur, not the glasses. We find that the essential character of the liqueur/glasses gift set is the liqueur."

The gift set was classified as a liqueur under heading 2208.

Headquarters ruling HQ 956368 dated July 7, 1994 concerned the classification of two different gift boxes. One gift box contained a **1.75 liter bottle of Scotch whisky with a cradle** composed of metal, plastic, and wood. The other gift box contained a **1.75 liter bottle of Canadian whisky with a cradle** composed of metal and plastic. The cradles were designed and used to assist in pouring the spirits contained in the accompanying bottles.

In determining that the products qualified as sets, Headquarters noted the low value of the cradles and stated: "Not only is it questionable whether the cradles will be retained for an extended period of time (e.g., after the accompanying spirits are consumed), but the size, shape, and design of the cradles as well as the labeling of 'Chivas Regal' and 'Crown Royal' on the cradles indicate that they are put up and packaged with the accompanying spirits to carry out the specific activity of imbibing those spirits."

The essential character of the sets was determined to be the Scotch whisky and the Canadian whisky. Headquarters stated: "The spirits account for approximately 85 percent of the product's value. A consumer will purchase this merchandise because of the particular spirits. In contrast, the cradles are designed to be used specifically with the accompanying spirits and facilitate the consumer's drinking of the spirits. As the

spirits impart the essential character, the merchandise is classifiable within heading 2208.”

Headquarters ruling HQ 960743 dated October 16, 1997 concerned the classification of a **750ml glass bottle containing vodka** distilled in Sweden and a **stainless steel cocktail shaker** produced in Taiwan. The importer entered each of the articles independently into a foreign trade zone where they were packaged together prior to being withdrawn for sale in the United States. The cost of the two articles was comparable (the vodka being \$6.74 for 750 ml. and the shakers vary between \$6.50 and \$7.80).

Headquarters stated: “The instant combination meets the first and last criteria of GRI 3(b). The two items are classifiable in different headings and the combination will be put up for sale without the need for repacking. However, the question of whether it meets the second criteria of being put together to meet a particular need or carry out a specific activity is questionable.”

Headquarters further states: “In this case, we have been presented with two articles which, although they can be used together, are not interdependent. At times, the cost of the cocktail shaker will exceed the cost of the bottle of vodka. Due to its construction, the useful life of the shaker can be safely expected to outlast many bottles of vodka. Additionally, the shaker is not used in the consumption of the vodka. Rather, it is something into which vodka, or another liquor, is poured so that additional materials can be added in the preparation of a mixed beverage.”

It was decided that the two items did not constitute a set within the scope of GRI 3(b) and should be classified as separate articles under GRI1. The vodka was classified under heading 2208, and the stainless steel shaker was classified under heading 7323.

ADDITIONAL INFORMATION

The Internet

The home page of U.S. Customs and Border Protection on the Internet's World Wide Web, provides the trade community with current, relevant information regarding CBP operations and items of special interest. The site posts information -- which includes proposed regulations, news releases, publications and notices, etc. -- that can be searched, read on-line, printed or downloaded to your personal computer. The web site was established as a trade-friendly mechanism to assist the importing and exporting community. The web site also links to the home pages of many other agencies whose importing or exporting regulations that U.S. Customs and Border Protection helps to enforce. The web site also contains a wealth of information of interest to a broader public than the trade community. For instance, the "Know Before You Go" publication and traveler awareness campaign is designed to help educate international travelers.

The web address of U.S. Customs and Border Protection is <http://www.cbp.gov>

Customs Regulations

The current edition of Customs and Border Protection Regulations of the United States is a loose-leaf, subscription publication available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; telephone (202) 512-1800. A bound edition of Title 19, Code of Federal Regulations is also available for sale from the same address. All proposed and final regulations are published in the Federal Register, which is published daily by the Office of the Federal Register, National Archives and Records Administration, and distributed by the Superintendent of Documents. Information about on-line access to the Federal Register may be obtained by calling (202) 512-1530 between 7 a.m. and 5 p.m. Eastern time. These notices are also published in the weekly Customs Bulletin described below.

Customs Bulletin

The Customs Bulletin and Decisions ("Customs Bulletin") is a weekly publication that contains decisions, rulings, regulatory proposals, notices and other information of interest to the trade community. It also contains decisions issued by the U.S. Court of International Trade, as well as customs-related decisions of the U.S. Court of Appeals for the Federal Circuit. Each year, the Government Printing Office publishes bound volumes of the Customs Bulletin. Subscriptions may be purchased from the Superintendent of Documents at the address and phone number listed above.

Importing Into the United States

This publication provides an overview of the importing process and contains general information about import requirements. The current edition of *Importing Into the United States* contains much new and revised material brought about pursuant to the Customs Modernization Act ("Mod Act"). The Mod Act has fundamentally altered the relationship between importers and U.S. Customs and Border Protection by shifting to the importer the legal responsibility for declaring the value, classification, and rate of duty applicable to entered merchandise.

The current edition contains a section entitled "Informed Compliance." A key component of informed compliance is the shared responsibility between U.S. Customs and Border Protection and the import community, wherein CBP communicates its requirements to the importer, and the importer, in turn, uses reasonable care to assure that CBP is provided accurate and timely data pertaining to his or her importation.

Single copies may be obtained from local offices of U.S. Customs and Border Protection, or from the Office of Public Affairs, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Washington, DC 20229. An on-line version is available at the CBP web site. *Importing Into the United States* is also available for sale, in single copies or bulk orders, from the Superintendent of Documents by calling (202) 512-1800, or by mail from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7054.

Informed Compliance Publications

U.S. Customs and Border Protection has prepared a number of Informed Compliance publications in the "*What Every Member of the Trade Community Should Know About:...*" series. Check the Internet web site <http://www.cbp.gov> for current publications.

Value Publications

Customs Valuation under the Trade Agreements Act of 1979 is a 96-page book containing a detailed narrative description of the customs valuation system, the customs valuation title of the Trade Agreements Act (§402 of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (19 U.S.C. §1401a)), the Statement of Administrative Action which was sent to the U.S. Congress in conjunction with the TAA, regulations (19 C.F.R. §§152.000-152.108) implementing the valuation system (a few sections of the regulations have been amended subsequent to the publication of the book) and questions and answers concerning the valuation system. A copy may be obtained from U.S. Customs and Border Protection, Office of Regulations and Rulings, Value Branch, 1300 Pennsylvania Avenue, NW, (Mint Annex), Washington, D.C. 20229.

Customs Valuation Encyclopedia (with updates) is comprised of relevant statutory provisions, CBP Regulations implementing the statute, portions of the Customs Valuation Code, judicial precedent, and administrative rulings involving application of valuation law. A copy may be purchased for a nominal charge from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7054. This publication is also available on the Internet web site of U.S. Customs and Border Protection.

The information provided in this publication is for general information purposes only. Recognizing that many complicated factors may be involved in customs issues, an importer may wish to obtain a ruling under CBP Regulations, 19 C.F.R. Part 177, or obtain advice from an expert (such as a licensed Customs Broker, attorney or consultant) who specializes in customs matters. Reliance solely on the general information in this pamphlet may not be considered reasonable care.

Additional information may also be obtained from U.S. Customs and Border Protection ports of entry. Please consult your telephone directory for an office near you. The listing will be found under U.S. Government, Department of Homeland Security.

“Your Comments are Important”

The Small Business and Regulatory Enforcement Ombudsman and 10 regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement activities and rate each agency’s responsiveness to small business. If you wish to comment on the enforcement actions of U.S. Customs and Border Protection, call 1-888-REG-FAIR (1-888-734-3247).

REPORT SMUGGLING 1-800-BE-ALERT OR 1-800-NO-DROGA



Visit our Internet web site: <http://www.cbp.gov>