

§ 26.230

wine, the notice requirement of § 26.222 shall not apply.

[T.D. ATF-62, 44 FR 71715, Dec. 11, 1979. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001]

Subpart L—Closures for Distilled Spirits From the Virgin Islands

GENERAL

§ 26.230 Containers of distilled spirits to bear closures.

Containers of 1 gallon (3.785 liters) or less of distilled spirits, upon which all Federal internal revenue taxes have been paid or determined under provisions of this part, shall have closures or other devices affixed in accordance with the provisions of this part.

(Sec. 454, Pub. L. 98-369, 98 Stat. 494 (26 U.S.C. 5301))

[T.D. ATF-206, 50 FR 23955, June 7, 1985]

§ 26.231 Affixing closures.

Closures or other devices shall be securely affixed to containers having capacity of 1 gallon (3.785 liters) or less so as to leave a portion remaining on the container when it is opened. In addition, the closures or other devices shall be constructed in such a manner as to require that they be broken to gain access to the contents of the containers.

(Sec. 454, Pub. L. 98-369, 98 Stat. 494 (26 U.S.C. 5301))

[T.D. ATF-206, 50 FR 23955, June 7, 1985. Redesignated by T.D. ATF-459, 66 FR 38550, July 25, 2001]

Subpart M—Procedure at Port of Entry From the Virgin Islands

§ 26.260 Certificate.

Persons (except tourists) bringing liquors or articles from the Virgin Islands into the United States shall file the certificate provided for in § 26.205 with the district director of customs at the port of entry in the United States.

[T.D. ATF-62, 44 FR 71716, Dec. 11, 1979. Redesignated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001]

27 CFR Ch. I (4-1-10 Edition)

§ 26.261 Action by district director of customs.

The district director of customs will direct the proper customs gauger to determine the taxable quantity of liquors contained in the consignment by regauge or inspection and report the result thereof to the district director of customs. Upon receipt of such report the district director of customs will refer to the certificate required by § 26.205 covering the product to determine the rate of internal revenue tax applicable thereto. When the rate of tax applicable to the product has been ascertained, the tax due on the consignment will be determined according to §§ 26.262 through 26.265.

[20 FR 6077, Aug. 20, 1955, as amended by T.D. 7006, 34 FR 2249, Feb. 15, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 26.261, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 26.262 Determination of tax on distilled spirits.

(a) If the certificate required by § 26.205 covers distilled spirits, and the distilled spirits are not being transferred under subparts O or Oa of this part, the tax imposed by 26 U.S.C. 7652 which provides for a tax equal to the tax imposed by 26 U.S.C. 5001 will be collected on each proof gallon, and fractional part thereof, contained in the shipment.

(b) A credit against the tax imposed on distilled spirits by 26 U.S.C. 7652 is allowable under 26 U.S.C. 5010 on each proof gallon of alcohol derived from eligible wine or from eligible flavors which do not exceed 2 ½ percent of the finished product on a proof gallon basis. The credit is allowable at the time the tax is payable as if it constituted a reduction in the rate of tax.

(c) Where credit against the tax is desired, the person liable for the tax shall establish an effective tax rate in accordance with § 26.262a. The effective tax rate established will be applied to each withdrawal or other disposition of

the distilled spirits within the United States.

(Approved by the Office of Management and Budget under control number 1512-0352)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201); Sec. 6, Pub. L. 96-598, 94 Stat. 3488, as amended (26 U.S.C. 5010), Act of August 16, 1954, Pub. L. 591, 68A Stat. 907, as amended (26 U.S.C. 7652))

[T.D. ATF-297, 55 FR 18068, Apr. 30, 1990. Re-designated and amended by T.D. ATF-459, 66 FR 38550, 38552, July 25, 2001]

§ 26.262a Computation of effective tax rate.

(a) The proprietor shall compute the effective tax rate for distilled spirits containing eligible wine or eligible flavors as the ratio of the numerator and denominator as follows:

(1) The numerator will be the sum of:

(i) The proof gallons of all distilled spirits used in the product (exclusive of distilled spirits derived from eligible flavors), multiplied by the tax rate prescribed by 26 U.S.C. 5001;

(ii) The wine gallons of each eligible wine used in the product, multiplied by the tax rate prescribed by 26 U.S.C. 5041(b) (1), (2), or (3), as applicable; and

(iii) The proof gallons of all distilled spirits derived from eligible flavors used in the product, multiplied by the tax rate prescribed by 26 U.S.C. 5001, but only to the extent that such distilled spirits exceed 2½% of the denominator prescribed in paragraph (a)(2) of this section.

(2) The denominator will be the sum of:

(i) The proof gallons of all distilled spirits used in the product, including distilled spirits derived from eligible flavors; and

(ii) The wine gallons of each eligible wine used in the product, multiplied by twice the percentage of alcohol by volume of each, divided by 100.

(b) In determining the effective tax rate, quantities of distilled spirits, eligible wine, and eligible flavors will be expressed to the nearest tenth of a proof gallon. The effective tax rate may be rounded to as many decimal places as the proprietor deems appropriate, provided that, such rate is expressed no less exactly than the rate rounded to the nearest whole cent, and the effective tax rates for all products will be consistently expressed to the same number of decimal places. In such case, if the number is less than five it will be dropped; if it is five or over, a unit will be added.

(c) The following is an example of the use of the formula.

BATCH RECORD	
Distilled spirits	2249.1 proof gallons.
Eligible wine (14% alcohol by volume).	2265.0 wine gallons.
Eligible wine (19% alcohol by volume).	1020.0 wine gallons.
Eligible flavors	100.9 proof gallons.

$$\frac{2249.1(\$13.50) + 2265.0(\$1.07) + 1020(\$1.57) + 16.6^1(\$13.50)}{2249.1 + 100.9 + (2265.0 \times .28) + (1020 \times .38)} = \frac{\$30,362.85 + \$2,423.55 + \$1,601.40 + \$224.10}{2,350.0 + 634.2 + 387.6} = \frac{\$34,611.90}{3,371.8} = \$10.27, \text{ the effective tax rate.}$$

(Approved by the Office of Management and Budget under control number 1512-0352)

(Sec. 6, Pub. L. 96-598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

[T.D. ATF-297, 55 FR 18068, Apr. 30, 1990, as amended by T.D. ATF-307, 55 FR 52741, Dec. 21, 1990]

¹ Proof gallons by which distilled spirits derived from eligible flavors exceed 2½% of the

total proof gallons in the batch (100.9 - (2½%) × 3,371.8 = 16.6).