

§ 70.602

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

singular, and vice versa, and words indicating the masculine gender shall include the feminine. The terms “includes” and “including” do not exclude other things not named which are in the same general class or are otherwise within the scope of the term defined.

Alcoholic liquors or liquors. Distilled spirits, wines, and beer lost, made unmarketable, or condemned, as provided in this subpart.

Beer. Beer, ale, porter, stout, and other similar fermented beverages (including sake, or other similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume on which the internal revenue tax has been paid or determined, and if imported, on which duties have been paid.

Claimant. The person who held the liquors for sale at the time of the disaster or other specified cause of loss and who files a claim under this subpart.

Commissioner of Customs. The Commissioner of Customs, U.S. Customs Service, the Department of the Treasury, Washington, DC.

Distilled spirits, or spirits. Ethyl alcohol and other distillates such as whiskey, brandy, rum, gin, vodka, in any form (including all dilutions and mixtures thereof, from whatever source or by whatever process produced), on which the internal revenue tax has been paid or determined and, if imported, on which duties have been paid.

Duly authorized official. Any Federal, State or local government official who is authorized to condemn liquors on which a claim is filed under this subpart.

Duty or duties. Any duty or duties paid under the customs laws of the United States.

Major Disaster. A flood, fire, hurricane, earthquake, storm, or other catastrophe defined as a “major disaster” under the Disaster Relief Act (42 U.S.C. 5122(2)), which occurs in any part of the United States and which the President has determined causes sufficient damage to warrant “major disaster” assistance under that Act.

Tax. (1) With respect to distilled spirits, “tax” means the internal revenue tax that is paid or determined on spirits.

(2) With respect to wines, “tax” means the internal revenue tax that is paid or determined on the wine.

(3) With respect to beer, “tax” means the internal revenue tax that is paid or determined on the beer.

United States. When used in a geographical sense includes only the States and the District of Columbia.

Wines. All still wines, effervescent wines, and flavored wines, on which internal revenue wine tax has been paid or determined, and if imported, on which duty has been paid.

[T.D. ATF-376, 61 FR 31033, June 19, 1996, as amended by T.D. ATF-450, 66 FR 29030, May 29, 2001]

PAYMENTS

§ 70.602 Circumstances under which payment may be made.

(a) *Major disasters.* The appropriate TTB officer shall allow payment (without interest) of an amount equal to the tax paid or determined, and the Commissioner of Customs shall allow payment (without interest) of an amount equal to the duty paid, on distilled spirits, wines, and beer previously withdrawn, if the liquors are lost, made unmarketable, or condemned by a duly authorized official as the result of a major disaster (as defined in § 70.601).

(b) *Other causes of loss—(1) Payment.* The appropriate TTB officer shall allow payment (without interest) of an amount equal to the tax paid or determined, and the Commissioner of Customs shall allow payment (without interest) of an amount equal to the duty paid, on distilled spirits, wines, and beer previously withdrawn, if the liquors are lost, made unmarketable, or condemned by a duly authorized official as a result of:

(i) Fire, flood, casualty, or other disaster; or

(ii) Breakage, destruction, or other damage (excluding theft) resulting from vandalism or malicious mischief.

(2) *Minimum claim.* No claim of less than \$250 will be allowed for losses resulting from any disaster or damage described in paragraph (b)(1) of this section.

(c) *General.* Payment under this section may be made only if:

(1) The disaster or other specified cause of loss occurred in the United States;

(2) At the time of the disaster or other specified cause of loss, the liquors were being held for sale by the claimant;

(3) Refund or credit of the amount claimed, or any part of the amount claimed, has not or will not be claimed for the same liquors under any other law or regulations; and

(4) The claimant was not indemnified by any valid claim of insurance or otherwise for the tax and/or duty on the liquors covered by the claim.

CLAIMS PROCEDURES

§ 70.603 Execution and filing of claim.

(a) *General.* (1) Claims under this subpart must be filed on Form 2635 (5620.8).

(2) The claim shall include all the facts on which the claim is based, and be accompanied by a record of inventory of the liquors lost, made unmarketable, or condemned. (See § 70.604.)

(3) The claim shall contain a statement that no other claim for refund or credit of the amount claimed, or for any part of the amount claimed, has been or will be filed under any other law or regulations.

(b) *Major disasters.* Claims for refund of tax and/or duty on liquors which were lost, became unmarketable, or were condemned as a result of a major disaster must be filed not later than 6 months from the day on which the President determines that a major disaster has occurred.

(c) *Other causes of loss.* (1) Claims for amounts of \$250 or more for refund of tax and/or duty on liquors which were lost, became unmarketable, or were condemned as the result of:

(i) Fire, flood, casualty, or other disaster; or

(ii) Damage (excluding theft) resulting from vandalism or malicious mischief, must be filed within 6 months after the date on which the disaster or damage occurred.

(2) Claims for amounts less than \$250 will not be allowed.

[T.D. ATF-376, 61 FR 31033, June 19, 1996, as amended by T.D. ATF-450, 66 FR 29030, May 29, 2001]

§ 70.604 Record of inventory to support claims.

(a) *Claims relating to distilled spirits.* The record of inventory of distilled spirits lost, made unmarketable, or condemned, which is required to support claims filed under § 70.603, shall show the following information:

(1) Name and business address of claimant (as shown on claim, Form 2635 (5620.8)).

(2) Address where the spirits were lost, became unmarketable, or were condemned, if different from the business address.

(3) Kind of spirits.

(4) Brand name.

(5) For full cases, show:

(i) Number of cases;

(ii) Serial numbers;

(iii) Bottles per case;

(iv) Size of bottles;

(v) Wine gallons per case;

(vi) Proof; and

(vii) Proof gallons.

(6) For bottles not in cases, show:

(i) Total number;

(ii) Size of bottles;

(iii) Wine gallons;

(iv) Proof; and

(v) Total proof gallons.

(7) Total proof gallons for all items.

(b) *Claims relating to wines.* The record of inventory of wines lost, made unmarketable, or condemned, which is required to support claims filed under § 70.603, shall show the following information:

(1) Name and business address of claimant (as shown on claim, Form 2635 (5620.8)).

(2) Address where the wines were lost, became unmarketable, or were condemned, if different from the business address.

(3) Kind of wine.

(4) Percent of alcohol by volume.

(5) Number of barrels or kegs.

(6) Kind and number of other bulk containers.

(7) Number of full cases and bottles per case.

(8) Size of bottles.

(9) Number of bottles not in cases and wine gallons.

(10) Total wine gallons.