§ 19.227 Determination of the tax.

After gauging, the proprietor must determine the tax on the spirits to be removed from the bonded premises. The proprietor must use the tax rate prescribed in 26 U.S.C. 5001 to calculate the tax, unless the product is eligible for a reduced effective tax rate as provided in 26 U.S.C. 5010. If the product is eligible for a reduced effective tax rate, the proprietor may use that rate to determine the tax. The proprietor must record the results of each tax determination in a record of tax determination as required by § 19.611.

(26 U.S.C. 5213)

RULES FOR DEFERRED PAYMENT AND PREPAYMENT OF TAXES

§ 19.229 Deferred payment and prepayment of taxes.

There are two basic methods of paying the tax on distilled spirits withdrawn from bonded premises: Deferred payment and prepayment.

(a) *Deferred payment*. Under the deferred payment system, the proprietor may withdraw spirits from bond after tax determination but before payment of tax. The excise tax paid is based on the amount of spirits removed from bond during each return period. In order to pay taxes under the deferral system, the proprietor must file a withdrawal bond or unit bond. For detailed information regarding return periods and filing requirements under the deferred system, see §§ 19.234, 19.235 and 19.236.

(b) *Prepayment*. Under the prepayment system, the proprietor must pay the distilled spirits tax after tax determination but before withdrawal of the spirits from bonded premises. See § 19.230 for conditions that require prepayment of taxes.

(26 U.S.C. 5061)

§ 19.230 Conditions requiring prepayment of taxes.

Under certain conditions, the proprietor must prepay the distilled spirits tax required, using TTB F 5000.24, Excise Tax Return, before removing spirits from the bonded premises. Those conditions are:

(a) When the proprietor has not given TTB a withdrawal bond or a unit bond;

(b) When the proprietor has posted a withdrawal or a unit bond, but has defaulted on any payment of tax under this section, and the tax payment remains in default. The proprietor must continue to prepay the tax until the appropriate TTB officer decides that allowing the proprietor to make deferred tax payments again will not jeopardize the revenue;

(c) When the proprietor receives a notice from the appropriate TTB officer that the tax must be prepaid. Such notice may be issued to the proprietor if—

(1) The proprietor fails to maintain records required by this part to substantiate the correctness of its tax returns; or

(2) The proprietor fails to comply with any other provision of this part; or

(d) When the proprietor's withdrawal bond, or the withdrawal coverage under its unit bond, is for less than the maximum penal sum. The proprietor must prepay the tax to the extent that a withdrawal would cause the outstanding tax liability to exceed the limits of coverage under the bond. See also § 19.231 if the bond is for less than the maximum penal sum.

(26 U.S.C. 5213, 5555)

§ 19.231 Accounting for bond coverage.

When a proprietor furnishes a withdrawal bond or a unit bond to cover the tax on spirits withdrawn on determination of tax, and such bond is in less than the maximum penal sum, the proprietor must maintain an account for the bond to ensure that outstanding tax liabilities do not exceed the penal sum of the bond. The account must charge the bond for the amount of liability incurred on each withdrawal on determination of tax and, credit the bond for each payment of tax made with a return and for authorized credits taken on a return. If the balance of the bond account reaches zero, the proprietor may no longer defer tax payments for taxable withdrawals. Where the bond is for less than the maximum penal sum and has been allocated among two or more plants, the proprietor must maintain an account at each

plant for that part of the penal sum allocated to each plant.

(26 U.S.C. 5173)

REQUIREMENTS FOR FILING TAX RETURNS

§ 19.233 Filing prepayment returns.

When the proprietor is required to prepay the tax prior to withdrawal of spirits from the bonded premises, the proprietor must prepay the tax with a return on form TTB F 5000.24, Excise Tax Return, and include the remittance with the return. The proprietor may prepay tax for one or more withdrawals with a single prepayment return on TTB F 5000.24. The proprietor will note the serial number of the TTB F 5000.24, and the date and time of the prepayment on the individual record of tax determination. The proprietor may not remove spirits from the bonded premises until the tax has been paid.

(26 U.S.C. 5061)

§ 19.234 Filing deferred payment returns.

A proprietor must pay the tax on spirits withdrawn from bond for deferred payment of tax by filing a return on form TTB F 5000.24, Excise Tax Return. The proprietor must execute and file TTB F 5000.24 for each return period, even when no tax is due for a particular return period. The proprietor of each bonded premises must pay the full amount of distilled spirits tax determined for all spirits released for withdrawal from the bonded premises on determination of tax during the period covered by the return (except spirits on which tax has been prepaid).

(26 U.S.C. 5061)

§ 19.235 Deferred payment return periods—quarterly and semimonthly.

(a) *Two types of return periods.* The IRC provides for two different return periods for those taxpayers who pay their taxes on a deferred basis: Quarterly and semimonthly. Small taxpayers that meet certain criteria are eligible to use quarterly return periods and pay their taxes on a quarterly basis. Larger taxpayers must use semimonthly return periods and pay their taxes on a semimonthly basis.

(b) *Quarterly return period.* Effective January 1, 2006, a taxpayer that reasonably expects to be liable for not more than $50,000 in taxes with respect to distilled spirits imposed by 26 U.S.C. 5001 and 7652 for the current calendar year, and that was liable for not more than $50,000 in such taxes in the preceding calendar year, may choose to use a quarterly return period. However, the taxpayer may not use the quarterly return period procedure for any portion of the calendar year following the first date on which the aggregate amount of tax due from the taxpayer during the calendar year exceeds $50,000, and any tax which has not been paid on that date will be due on the 14th day after the last day of the semimonthly period in which that date occurs. The following additional rules apply to the quarterly return period procedure under this section:

(1) A taxpayer with multiple locations must combine the distilled spirits tax liability for all locations to determine eligibility for the quarterly return procedure;

(2) A taxpayer that has both domestic operations and import transactions must combine the distilled spirits tax liability on the domestic operations and the imports to determine eligibility for the quarterly return procedure;

(3) The controlled group rules of 26 U.S.C. 5061(e), which concern treatment of controlled groups as one taxpayer, do not apply for purposes of determining eligibility for the quarterly return procedure. However, a taxpayer that is eligible for the quarterly return procedure, and that is a member of a controlled group that owes $5 million or more in distilled spirits excise taxes per year, is required to pay taxes by electronic fund transfer (EFT). Quarterly payments via EFT must be transmitted in accordance with section 5061(e);

(4) A new taxpayer is eligible to file quarterly returns in the first year of business simply if the taxpayer reasonably expects to be liable for not more than $50,000 in distilled spirits taxes during that calendar year; and

(5) If a taxpayer filing quarterly exceeds $50,000 in tax liability during a taxable year and therefore must revert