that brewery on the day that the beer is returned.

(c) Offsets not allowed. An offset or deduction for returned beer will not be allowed if:

(1) The brewer was indemnified by insurance or otherwise in respect of the tax; or

(2) The brewer does not issue credit to the customer for the tax on the returned beer within 30 days of the return of the beer. If the tax is not timely credited after the offset or deduction is taken, the brewer shall make an increasing adjustment on the next tax return.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1333, as amended, 1335, as amended (26 U.S.C. 5051))

§ 25.160 Tax adjustment for brewers who produce more than 2,000,000 barrels of beer.

Each brewer who has paid tax on beer by return, Form 5000.24, at the reduced rate of tax during a calendar year, but whose production (or the production of a controlled group of brewers of which the brewer is a member) exceeds 2,000,000 barrels of beer in that calendar year, is no longer eligible to pay tax on beer at the reduced rate of tax for any beer removed that calendar year for consumption or sale. The brewer shall make a tax adjustment for the payment of additional tax no later than the return period in which production (or the production of a controlled group of brewers of which the brewer is a member) exceeds 2,000,000 barrels of beer. The adjustment will be determined by multiplying the difference between the higher and lower rates of tax applicable to beer by the number of barrels removed by the brewer that year at the reduced rate of tax. The brewer shall make tax adjustments for all breweries where tax was paid at the lower rate that year, and shall include interest payable from the date on which tax was paid at the lower rate. In the case of a controlled group of brewers whose production exceeds 2,000,000 barrels of beer, all member brewers who paid tax at the lower rate shall make tax adjustments as determined in this section.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1333, as amended (26 U.S.C. 5051))
and 7652 in the preceding calendar year
and if that taxpayer reasonably expects
to be liable for not more than $50,000 in
such taxes during the current calendar
year. In such a case the last day for
paying the tax and filing the return
shall be the 14th day after the last day
of the calendar quarter. However, the
taxpayer may not use the quarterly re-
turn 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 that has not been paid on that date
shall 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 sec-
tion:
(i) A “taxpayer” is an individual, cor-
poration, partnership, or other entity
that is assigned a single Employer
Identification Number as defined in 26
CFR 301.7701–12;
(ii) “Reasonably expects” means that
there is no existing or anticipated cir-
cumstance known to the taxpayer
(such as an increase in production ca-
pacity) that would cause the taxpayer’s
tax liability to exceed the prescribed
limit;
(iii) A taxpayer with multiple loca-
tions must combine the beer tax liabil-
ity for all locations to determine eligi-
bility for the quarterly return proce-
dure;
(iv) A taxpayer who has both domes-
tic operations and import transactions
must combine the beer tax liability on
the domestic operations and the im-
ports to determine eligibility for the
quarterly return procedure;
(v) 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 deter-
mining eligibility for the quarterly re-
turn procedure. However, a taxpayer
who is eligible for the quarterly return
procedure, and who is a member of a
controlled group that owes $5 million
or more in beer excise taxes per year, is
required to pay taxes by electronic
fund transfer (EFT). Quarterly pay-
ments via EFT shall be transmitted in
accordance with section 5061(e);
(vi) A new taxpayer is eligible to file
quarterly returns in the first year of
business simply if the taxpayer reason-
ably expects to be liable for not more
than $50,000 in beer taxes during that
calendar year; and
(vii) If a taxpayer filing quarterly ex-
cesses $50,000 in tax liability during a
taxable year and therefore must revert
to the semimonthly return procedure,
that taxpayer may resume quarterly
payments only after a full calendar
year has passed during which the tax-
payer’s liability did not exceed $50,000.
(d) Time for filing returns and paying
tax. Except as otherwise provided in
§25.164a for semimonthly tax returns,
the brewer shall file the tax return,
TTB F 5000.24, for each return period,
and make remittance as required by
this section, not later than the 14th
day after the last day of the return pe-
riod. If the due date falls on a Satur-
day, Sunday, or legal holiday, the re-
turn and remittance are due on the im-
mediately preceding day that is not a
Saturday, Sunday, or legal holiday, ex-
cept as otherwise provided in
§25.164a(c).
(e) Timely filing. (1) When the brewer
sends the semimonthly or quarterly
tax return, Form 5000.24, by U.S. mail,
in accordance with the instructions on
the form, as required by this section,
with remittance as provided for in this
section, except as otherwise provided in
§25.164a(c).
(1) When the brewer
sends the semimonthly or quarterly
tax return, Form 5000.24, by U.S. mail,
in accordance with the instructions on
the form, as required by this section,
with remittance as provided for in this
section, or without remittance as pro-
vided for in §25.165, the date of the offi-
cial postmark of the United States
Postal Service stamped on the cover in
which the return and remittance were
mailed is considered the date of deliv-
ery of the return and the date of deliv-
ery of the remittance, if enclosed with
the return. When the postmark on the
cover is illegible, the burden is on the
brewer to prove when the postmark
was made.
(2) When the brewer sends the semi-
monthy or quarterly return with or
without remittance by registered mail
or by certified mail, the date of reg-
istry or the date of the postmark on
the sender’s receipt of certified mail be
treated as the date of delivery of the
semimonthly or quarterly return and
§ 25.164a Special September rule for taxes due by semimonthly return.

(a) Division of second semimonthly period.

(1) General. Except as otherwise provided in paragraph (a)(2) of this section, the second semimonthly period for the month of September is divided into two payment periods, from the 16th day through the 26th day, and from the 27th day through the 30th day. The brewer shall file a return, TTB F 5000.24, and make remittance, for the period September 16–26, no later than September 29. The brewer shall file a return on TTB F 5000.24, and make remittance, for the period September 27–30, no later than October 14.

(2) Tax payment not by electronic fund transfer. Taxpayers are considered to have met the requirements of paragraph (a)(2) of this section if the amount paid no later than September 28 is not less than 2/3rds (66.7 percent) of the tax liability incurred for the semimonthly period beginning on September 1 and ending on September 15, and if any underpayment of tax is paid by October 14.

(b) Amount of payment—Safe harbor rule.

(1) General. Taxpayers are considered to have met the requirements of paragraph (a)(1) of this section if the amount paid no later than September 29 is not less than 11/15ths (73.3 percent) of the tax liability incurred for the semimonthly period beginning on September 1 and ending on September 15, and if any underpayment of tax is paid by October 14.

(2) Tax payment not by EFT. Taxpayers are considered to have met the requirements of paragraph (a)(2) of this section if the amount paid no later than September 28 is not less than 2/3rds (66.7 percent) of the tax liability incurred for the semimonthly period beginning on September 1 and ending on September 15, and if any underpayment of tax is paid by October 14.

(c) Weekends and holidays. If the required payment due date for the period September 16–25 or September 16–26, as applicable, falls on a Saturday or legal holiday, the return and remittance are due on the immediately preceding day. If the required due date falls on a Sunday, the return and remittance are due on the immediately following day.

(d) Example: Payment of tax for the month of September.

(1) Facts. X, a brewer required to pay taxes by electronic fund transfer, incurred tax liability in the amount of $30,000 for the first semimonthly period of September. For the period September 16–26, X incurred tax liability in the amount of $45,000, and for the period September 27–30, X incurred tax liability in the amount of $2,000.

(2) Payment requirement. X’s payment of tax in the amount of $30,000 for the first semimonthly period of September is due no later than September 29 (§ 25.164(d)). X’s payment of tax for the period September 16–26 is also due no later than September 29 (§ 25.164a(a)(1)). X may use the safe harbor rule to determine the amount of payment due for the period September 16–26 (§ 25.164a(b)). Under the safe harbor rule, X’s payment of tax must not be less than $21,990.00, that is, 11/15ths of the tax liability incurred during the first semimonthly period of September. Additionally, X must pay the tax in the amount of $2,000 for the period September 27–30 no later than October 14 (§ 25.164a(a)(1)). X must also pay the underpayment of tax, $23,010.00, for the period September 16–26, no later than October 14 (§ 25.164a(b)).