

TABLE 1—MATERIAL INCORPORATED BY REFERENCE

Service Bulletin No.	Page	Revision	Date
Mandatory Service Bulletin A292 72 0827 .....	All .....	Version C .....	July 15, 2009.
Mandatory Service Bulletin A292 72 2833 .....	All .....	Version C .....	July 15, 2009.

Issued in Burlington, Massachusetts, on March 16, 2010.

**Francis A. Favara,**

*Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

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## DEPARTMENT OF THE TREASURY

### Alcohol and Tobacco Tax and Trade Bureau

**27 CFR Parts 17, 19, 20, 22, 24, 25, 26, 27, 28, 31, 40, 44, 46, and 70**

**[Docket No. TTB-2009-0003; T.D. TTB-84; Re: Notice No. 96 and T.D. TTB-79]**

**RIN 1513-AB63**

#### Liquor Dealer Recordkeeping and Registration, and Repeal of Certain Special (Occupational) Taxes

**AGENCY:** Alcohol and Tobacco Tax and Trade Bureau, Treasury.

**ACTION:** Final rule; Treasury decision.

**SUMMARY:** This Treasury decision adopts as a final rule, without change, a temporary rule that amended the regulations administered by the Alcohol and Tobacco Tax and Trade Bureau to reflect the repeal of certain special (occupational) taxes effected by section 11125 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. The regulatory amendments involved the repeal of special taxes on alcohol beverage producers and dealers, tax-free alcohol users, denatured spirits users and dealers, and persons claiming drawback for the manufacture of nonbeverage alcoholic products, and the inclusion of recordkeeping and registration requirements for dealers in distilled spirits, wines, and beer, and for manufacturers of nonbeverage products who claim drawback.

**DATES:** *Effective Date:* Effective May 3, 2010, the temporary rule published in the **Federal Register** at 74 FR 37394 on July 28, 2009, is adopted as a final rule without change, and by this regulatory action the temporary rule, which was effective from July 28, 2009, through July 30, 2012, is effective indefinitely.

**FOR FURTHER INFORMATION CONTACT:** Ben Birkhill, Regulations and Rulings

Division, Alcohol and Tobacco Tax and Trade Bureau (202-453-2268 or [benjamin.birkhill@ttb.gov](mailto:benjamin.birkhill@ttb.gov)).

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 11125 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Public Law 109-59, 119 Stat. 1144 (“the Act”) was signed by the President on August 10, 2005. Section 11125 of the Act amended Chapters 51 and 52 of the Internal Revenue Code of 1986 (IRC), 26 U.S.C., to repeal the provisions covering special (occupational) tax (SOT) on alcohol beverage producers and dealers, tax-free alcohol users, denatured spirits users and dealers, and persons claiming drawback for the manufacture of nonbeverage alcoholic products.

The Act did not eliminate the recordkeeping and registration requirements that applied to alcohol beverage dealers (including all persons in the business of selling alcohol products fit for beverage use) and nonbeverage drawback claimants prior to the SOT repeal. Further, the Act did not eliminate the SOT and related registration requirements for certain tobacco occupations (manufacturer of tobacco products, manufacturer of cigarette papers and tubes, and export warehouse proprietor).

The Alcohol and Tobacco Tax and Trade Bureau (TTB) is responsible for the administration of the provisions in Chapters 51 and 52 of the IRC relating to these tax, recordkeeping, and registration requirements, including the promulgation of regulations thereunder in chapter 1 of title 27 of the Code of Federal Regulations.

##### Publication of Temporary Rule

On July 28, 2009, TTB published in the **Federal Register** (74 FR 37394) a temporary rule, T.D. TTB-79, amending certain provisions in 27 CFR parts 17, 19, 20, 22, 24, 25, 26, 27, 28, 31, 40, 44, 46, and 70. The temporary rule eliminated the regulatory provisions related to the SOT on the producers, dealers, users, and other persons referred to above. The temporary rule also included various amendments relating to registration and recordkeeping in order to clarify the

application of these requirements to the persons subject to them.

With regard to tobacco products and cigarette papers and tubes, the temporary rule added a new subpart D to 27 CFR part 46 (Miscellaneous Regulations Relating to Tobacco Products and Cigarette Papers and Tubes) in order to consolidate in one place the SOT provisions contained in 27 CFR parts 40 (Manufacture of Tobacco Products, Cigarette Papers and Tubes, and Processed Tobacco) and 44 (Exportation of Tobacco Products and Cigarette Papers and Tubes, without Payment of Tax, or with Drawback of Tax). This new subpart D also borrowed regulations from 27 CFR part 31 (Alcohol Beverage Dealers) to reflect SOT policy positions developed through rulemaking involving the alcohol beverage dealer’s tax, including provisions relating to multiple businesses conducted by the same person at the same place, liability of partners, payment of the special tax, special tax stamps, and abatement or refund of special taxes.

In addition, the temporary rule included a number of miscellaneous regulatory amendments to remove no longer needed references to the SOT. The amendments made by T.D. TTB-79 are discussed in more detail in the preamble of that document.

In conjunction with the publication of the temporary rule, TTB also published on July 28, 2009, a notice of proposed rulemaking, Notice No. 96, in the **Federal Register** (74 FR 37426). This notice invited the submission of public comments on the regulatory amendments contained in the temporary rule, with the comment period closing on September 28, 2009. The Bureau did not receive any comments on the temporary rule in response to Notice No. 96. Accordingly, for the reasons set forth in the preamble of T.D. TTB-79, we have determined that it is appropriate to adopt that temporary rule as a final rule without change.

##### Regulatory Flexibility Act

We certify that this regulation will not have a significant impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. The relevant collections of information derive directly from the Internal Revenue Code

of 1986, as amended, and the regulations in this rule concerning these collections merely implement the statutory requirements. Likewise, any secondary or incidental effects, and any reporting, recordkeeping, or other compliance burdens flow directly from the statute. Pursuant to 26 U.S.C. 7805(f), the temporary regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration (SBA) for comment regarding its impact on small business, and TTB has not received any comments from SBA.

### Paperwork Reduction Act

TTB has provided estimates of the burdens that the collections of information contained in these regulations impose, and these estimated burdens have been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and assigned control numbers 1513-0088, 1513-0112, and 1513-0113. Under the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number.

Comments concerning suggestions for reducing the burden of the collections of information in this document should be directed to Mary A. Wood, Alcohol and Tobacco Tax and Trade Bureau, at any of these addresses:

- P.O. Box 14412, Washington, DC 20044-4412;
- 202-927-8525 (facsimile); or
- [formcomments@ttb.gov](mailto:formcomments@ttb.gov) (e-mail).

### Executive Order 12866

We have determined that this document is not a significant regulatory action as defined by Executive Order 12866. Therefore, a regulatory assessment is not required.

### Drafting Information

Ben Birkhill of the Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, drafted this document.

### List of Subjects

#### 27 CFR Part 17

Administrative practice and procedure, Claims, Cosmetics, Customs duties and inspection, Drugs, Excise taxes, Exports, Imports, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Spices and flavorings, Surety bonds, Virgin Islands.

#### 27 CFR Part 19

Administrative practice and procedures, Caribbean Basin Initiative, Claims, Electronic funds transfers, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Research, Security measures, Surety bonds, Vinegar, Virgin Islands, Warehouses.

#### 27 CFR Part 20

Alcohol and alcoholic beverages, Claims, Cosmetics, Excise taxes, Labeling, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Surety bonds.

#### 27 CFR Part 22

Administrative practice and procedure, Alcohol and alcoholic beverages, Excise taxes, Reporting and recordkeeping requirements, Surety bonds.

#### 27 CFR Part 24

Administrative practice and procedure, Claims, Electronic fund transfers, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavoring, Surety bonds, Vinegar, Warehouses, Wine.

#### 27 CFR Part 25

Administrative practice and procedure, Beer, Claims, Electronic funds transfers, Excise taxes, Exports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Research, Surety bonds.

#### 27 CFR Part 26

Administrative practice and procedure, Alcohol and alcoholic beverages, Caribbean Basin Initiative, Claims, Customs duties and inspection, Electronic funds transfers, Excise taxes, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Surety bonds, Virgin Islands, Warehouses.

#### 27 CFR Part 27

Alcohol and alcoholic beverages, Beer, Cosmetics, Customs duties and inspection, Electronic funds transfers, Excise taxes, Imports, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Wine.

#### 27 CFR Part 28

Aircraft, Alcohol and alcoholic beverages, Armed forces, Beer, Claims, Excise taxes, Exports, Foreign trade zones, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping

requirements, Surety bonds, Vessels, Warehouses, Wine.

#### 27 CFR Part 31

Alcohol and alcoholic beverages, Excise taxes, Exports, Packaging and containers, Reporting and recordkeeping requirements.

#### 27 CFR Part 40

Cigars and cigarettes, Claims, Electronic funds transfers, Excise taxes, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Tobacco.

#### 27 CFR Part 44

Aircraft, Armed forces, Cigars and cigarettes, Claims, Customs duties and inspection, Excise taxes, Exports, Foreign trade zones, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Tobacco, Vessels, Warehouses.

#### 27 CFR Part 46

Administrative practice and procedure, Cigars and cigarettes, Claims, Excise taxes, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Surety bonds, Tobacco.

#### 27 CFR Part 70

Administrative practice and procedure, Claims, Excise taxes, Freedom of information, Law enforcement, Penalties, Reporting and recordkeeping requirements, Surety bonds.

### The Regulatory Amendment

■ For the reasons discussed in the preamble, the temporary rule amending 27 CFR parts 17, 19, 20, 22, 24, 25, 26, 27, 28, 31, 40, 44, 46, and 70, published in the **Federal Register** at 74 FR 37394 on July 28, 2009, is adopted as a final rule without change and by this regulatory action the temporary rule, which was effective from July 28, 2009, through July 30, 2012, is effective indefinitely.

Signed: February 5, 2010.

**John J. Manfreda,**  
Administrator.

Approved: March 19, 2010.

**Timothy E. Skud,**  
Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

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