

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; Notice No. 96; Re: 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: Notice of proposed rulemaking.

SUMMARY: Elsewhere in this issue of the **Federal Register**, the Alcohol and Tobacco Tax and Trade Bureau is issuing a temporary rule implementing section 11125 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, which repealed certain special (occupational) taxes and which continues to require recordkeeping and registration by dealers in distilled spirits, wines, and beer, and by manufacturers of nonbeverage products. In this notice of proposed rulemaking, we are soliciting comments from all interested parties on the regulatory amendments to implement these changes. The text of the regulations in the temporary rule published elsewhere in this issue of the **Federal Register** serves as the text of the proposed regulations.

DATES: Comments must be received on or before September 28, 2009.

ADDRESSES: You may send comments on this notice to one of the following addresses:

- <http://www.regulations.gov> (via the online comment form for this notice as posted within Docket No. TTB-2009-0003 at "Regulations.gov," the Federal e-rulemaking portal);

- Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044-4412.

- *Hand Delivery/Courier in Lieu of Mail:* Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Suite 200-E, Washington, DC 20005.

See the Public Participation section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

You may view copies of this notice and any comments we receive about this proposal at <http://www.regulations.gov>. A direct link to the appropriate Regulations.gov docket is also available

under Notice No. 96 on the TTB Web site at http://www.ttb.gov/regulations_laws/all_rulemaking.shtml. You also may view copies of this notice and any comments we receive about this proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. To make an appointment, call 202-453-2259.

FOR FURTHER INFORMATION CONTACT: For questions concerning dealer registration or occupational tax filing procedures, contact Jackie Feinauer, National Revenue Center, Alcohol and Tobacco Tax and Trade Bureau (800-937-8864); for other questions concerning this document, contact Steve C. Simon, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau (202-453-2164 or steven.simon@ttb.gov).

SUPPLEMENTARY INFORMATION:

Background

Elsewhere in this issue of the **Federal Register**, we are publishing a temporary rule setting forth regulatory amendments to implement section 11125 of the "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users," Public Law 109-59, 119 Stat. 1144 ("the Act"), signed by the President on August 10, 2005. Section 11125 of the Act amended various sections of the Internal Revenue Code of 1986 (IRC), 26 U.S.C., to repeal special (occupational) tax (SOT) on alcohol occupations. The Act continued the recordkeeping and registration requirements on liquor dealers (including all persons in the business of selling alcohol products fit for beverage use) and nonbeverage drawback claimants that SOT taxpayers were required to fulfill prior to the SOT repeal. Further, the Act retained the special (occupational) tax and the related registration requirement 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 IRC provisions relating to these tax, recordkeeping, and registration requirements.

The temporary regulations published elsewhere in this issue of the **Federal Register** involve amendments to parts 17, 19, 20, 22, 24, 25, 26, 27, 28, 31, 40, 44, 46, and 70 of the TTB regulations (27 CFR parts 17, 19, 20, 22, 24, 25, 26, 27, 28, 31, 40, 44, 46, and 70). The text of the temporary regulations serves as the text of these proposed regulations.

The preamble to the temporary regulations explains the regulatory amendments.

Public Participation

Comments Invited

We invite comments from interested members of the public on this proposed rulemaking. Please submit your comments by the closing date shown above in this notice. Your comments must reference Notice No. 96 and include your name and mailing address. Your comments also must be made in English, be legible, and be written in language acceptable for public disclosure. We do not acknowledge receipt of comments, and we consider all comments as originals.

Submitting Comments

You may submit comments on this notice by one of the following two methods:

- **Federal e-Rulemaking Portal:** You may electronically submit comments on this notice through "Regulations.gov," the Federal e-rulemaking portal. A direct link to the Regulations.gov docket containing this notice and its related comment submission form is available on the TTB Web site at http://www.ttb.gov/regulations_laws/all_rulemaking.shtml under Notice No. 96. You may also reach this notice and its related comment form via the Regulations.gov search page at <http://www.regulations.gov>. Supplemental files may be attached to comments submitted via Regulations.gov. For complete instructions on how to use Regulations.gov, visit the site and click on "User Guide" under "How to Use this Site."

- **Mail:** You may send written comments to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044-4412.

- **Hand Delivery/Courier:** You may hand-carry your comments or have them hand-carried to the Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Suite 200-E, Washington, DC 20005.

If you are commenting on behalf of an association, business, or other entity, your comment must include the entity's name as well as your name and position title. If you comment via <http://www.regulations.gov>, please enter the entity's name in the "Organization" blank of the comment form. If you comment via mail, please submit your entity's comment on letterhead.

You may also write to the Administrator before the comment

closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

Public Disclosure

On the Federal e-rulemaking portal, Regulations.gov, we will post, and you may view, copies of this notice, selected supporting materials, and any electronic or mailed comments we receive about this proposal. A direct link to the Regulations.gov docket containing this notice, any posted supporting materials, and the comments received on this proposal is available on the TTB Web site at http://www.ttb.gov/regulations_laws/all_rulemaking.shtml under Notice No. 96. You may also reach the relevant docket through the Regulations.gov search page at <http://www.regulations.gov>. For instructions on how to use Regulations.gov, visit the site and click on "User Guide" under "How To Use This Site."

All posted comments will display the commenter's name, organization (if any), city, and State, and, in the case of mailed comments, all address information, including e-mail addresses. We may omit voluminous attachments or material that we consider unsuitable for posting.

You also may view copies of this notice, the related petitions, any other supporting materials, and any electronic or mailed comments we receive about this proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. You may also obtain copies at 20 cents per 8.5- x 11-inch page. Contact our information specialist at the above address or by telephone at 202-927-2400 to schedule an appointment or to request copies of comments or other materials.

Regulatory Flexibility Act, Paperwork Reduction Act, and Executive Order 12866

Since the regulatory text proposed in this notice of proposed rulemaking is identical to that contained in the companion temporary rule, the analyses contained in the preamble of the temporary rule concerning the Regulatory Flexibility Act, the Paperwork Reduction Act, and Executive Order 12866 also apply to this proposed rule.

Drafting Information

Steve C. Simon, Daniel Hiland, and Marjorie Ruhf of the Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, drafted this document. Other personnel also participated in its development.

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, Claims, 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.

Proposed Amendments to the Regulations

For the reasons discussed in the preamble, TTB proposes to amend 27 CFR parts 17, 19, 20, 22, 24, 25, 26, 27, 28, 31, 40, 44, 46, and 70 as follows:

PART 17—DRAWBACK ON TAXPAID DISTILLED SPIRITS USED IN MANUFACTURING NONBEVERAGE PRODUCTS

1. The authority citation for part 17 is revised to read as follows:

Authority: 26 U.S.C. 5010, 5111–5114, 5123, 5206, 5273, 6011, 6065, 6091, 6109, 6151, 6402, 6511, 7213, 7652, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

2. [The proposed amendatory instructions and the proposed amended regulatory text for part 17 are the same as the amendatory instructions and the amended regulatory text set forth in the temporary rule on this subject published elsewhere in this issue of the **Federal Register**.]

PART 19—DISTILLED SPIRITS PLANTS

3. The authority citation for part 19 is revised to read as follows:

Authority: 19 U.S.C. 81c, 1311; 26 U.S.C. 5001, 5002, 5004–5006, 5008, 5010, 5041, 5061, 5062, 5066, 5101, 5121–5124, 5171–5173, 5175, 5176, 5178–5181, 5201–5204, 5206, 5207, 5211–5215, 5221–5223, 5231, 5232, 5235, 5236, 5241–5243, 5271, 5273, 5301, 5311–5313, 5362, 5370, 5373, 5501–5505, 5551–5555, 5559, 5561, 5562, 5601, 5612, 5682, 6001, 6065, 6109, 6302, 6311, 6676, 6806, 7510, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

4. [The proposed amendatory instructions and the proposed amended regulatory text for part 19 are the same as the amendatory instructions and the amended regulatory text set forth in the temporary rule on this subject published elsewhere in this issue of the **Federal Register**.]

PART 20—DISTRIBUTION AND USE OF DENATURED ALCOHOL AND RUM

5. The authority citation for part 20 continues to read as follows:

Authority: 26 U.S.C. 5001, 5206, 5214, 5271–5275, 5311, 5552, 5555, 5607, 6065, 7805.

6. [The proposed amendatory instructions and the proposed amended regulatory text for part 20 are the same as the amendatory instructions and the amended regulatory text set forth in the temporary rule on this subject published elsewhere in this issue of the **Federal Register**.]

PART 22—DISTRIBUTION AND USE OF TAX-FREE ALCOHOL

7. The authority citation for part 22 is revised to read as follows:

Authority: 26 U.S.C. 5001, 5121, 5123, 5206, 5214, 5271–5275, 5311, 5552, 5555, 6056, 6061, 6065, 6109, 6151, 6806, 7805; 31 U.S.C. 9304, 9306.

8. [The proposed amendatory instructions and the proposed amended regulatory text for part 22 are the same as the amendatory instructions and the amended regulatory text set forth in the temporary rule on this subject published elsewhere in this issue of the **Federal Register**.]

PART 24—WINE

9. The authority citation for part 24 is revised to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5121–5124, 5173, 5206, 5214, 5215, 5351, 5353, 5354, 5356, 5357, 5361, 5362, 5364–5373, 5381–5388, 5391, 5392, 5511, 5551, 5552, 5661, 5662, 5684, 6065, 6091, 6109, 6301, 6302, 6311, 6651, 6676, 7302, 7342, 7502, 7503, 7606, 7805, 7851; 31 U.S.C. 9301, 9303, 9304, 9306.

10. [The proposed amendatory instructions and the proposed amended regulatory text for part 24 are the same as the amendatory instructions and the amended regulatory text set forth in the temporary rule on this subject published elsewhere in this issue of the **Federal Register**.]

PART 25—BEER

11. The authority citation for part 25 is revised to read as follows:

Authority: 19 U.S.C. 81c; 26 U.S.C. 5002, 5051–5054, 5056, 5061, 5121–5124, 5222, 5401–5403, 5411–5417, 5551, 5552, 5555, 5556, 5671, 5673, 5684, 6011, 6061, 6065, 6091, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6651, 6656, 6676, 6806, 7342, 7606, 7805; 31 U.S.C. 9301, 9303–9308.

12. [The proposed amendatory instructions and the proposed amended regulatory text for part 25 are the same as the amendatory instructions and the amended regulatory text set forth in the temporary rule on this subject published elsewhere in this issue of the **Federal Register**.]

PART 26—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

13. The authority citation for part 26 is revised to read as follows:

Authority: 19 U.S.C. 81c; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5061, 5111–5114, 5121–5124, 5131–5132, 5207, 5232, 5271, 5275, 5301, 5314, 5555, 6001, 6301, 6302, 6804, 7101, 7102, 7651, 7652, 7805; 27 U.S.C. 203, 205; 31 U.S.C. 9301, 9303, 9304, 9306.

14. [The proposed amendatory instructions and the proposed amended regulatory text for part 26 are the same as the amendatory instructions and the amended regulatory text set forth in the temporary rule on this subject published

elsewhere in this issue of the **Federal Register**.]

PART 27—IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

15. The authority citation for part 27 is revised to read as follows:

Authority: 5 U.S.C. 552(a); 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5054, 5061, 5121–5124, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5555, 6302, 7805.

16. [The proposed amendatory instructions and the proposed amended regulatory text for part 27 are the same as the amendatory instructions and the amended regulatory text set forth in the temporary rule on this subject published elsewhere in this issue of the **Federal Register**.]

PART 28—EXPORTATION OF ALCOHOL

17. The authority citation for part 28 is revised to read as follows:

Authority: 5 U.S.C. 552(a); 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5041, 5051, 5054, 5061, 5121, 5122, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5555, 6302, 7805; 27 U.S.C. 203, 205; 44 U.S.C. 3504(h).

18. [The proposed amendatory instructions and the proposed amended regulatory text for part 28 are the same as the amendatory instructions and the amended regulatory text set forth in the temporary rule on this subject published elsewhere in this issue of the **Federal Register**.]

PART 31—ALCOHOL BEVERAGE DEALERS

19. The authority citation for part 31 is revised to read as follows:

Authority: 26 U.S.C. 5001, 5002, 5121–5124, 5131, 5132, 5206, 5207, 5273, 5301, 5352, 5555, 5603, 5613, 5681, 5687, 6061, 6065, 6071, 6091, 6103, 6109, 6723, 6724, 7805.

20. [The proposed amendatory instructions and the proposed amended regulatory text for part 31 are the same as the amendatory instructions and the amended regulatory text set forth in the temporary rule on this subject published elsewhere in this issue of the **Federal Register**.]

PART 40—MANUFACTURE OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

21. The authority citation for part 40 is revised to read as follows:

Authority: 26 U.S.C. 448, 5701, 5703–5705, 5711–5713, 5721–5723, 5731–5734, 5741, 5751, 5753, 5761–5763, 6061, 6065,

6109, 6151, 6301, 6302, 6311, 6313, 6402, 6404, 6423, 6676, 6806, 7011, 7212, 7325, 7342, 7502, 7503, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

22. [The proposed amendatory instructions and the proposed amended regulatory text for part 40 are the same as the amendatory instructions and the amended regulatory text set forth in the temporary rule on this subject published elsewhere in this issue of the **Federal Register**.]

PART 44—EXPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, OR WITH DRAWDRAWBACK OF TAX

23. The authority citation for part 44 is revised to read as follows:

Authority: 26 U.S.C. 448, 5146, 5701, 5703–5705, 5711–5713, 5721–5723, 5731–5734, 5741, 5751, 5754, 6061, 6065, 6151, 6402, 6404, 6806, 7011, 7212, 7342, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

24. [The proposed amendatory instructions and the proposed amended regulatory text for part 44 are the same as the amendatory instructions and the amended regulatory text set forth in the temporary rule on this subject published

elsewhere in this issue of the **Federal Register**.]

PART 46—MISCELLANEOUS REGULATIONS RELATING TO TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

25. The authority citation for part 46 is amended to read as follows:

Authority: 18 U.S.C. 2341–2346, 26 U.S.C. 5061, 5704, 5708, 5731–5734, 5751, 5754, 5761–5763, 6001, 6601, 6621, 6622, 7212, 7342, 7602, 7606, 7805; 44 U.S.C. 3504(h), 49 U.S.C. 782, unless otherwise noted.

26. [The proposed amendatory instructions and the proposed amended regulatory text for part 46 are the same as the amendatory instructions and the amended regulatory text set forth in the temporary rule on this subject published elsewhere in this issue of the **Federal Register**.]

PART 70—PROCEDURE AND ADMINISTRATION

27. The authority citation for part 70 is revised to read as follows:

Authority: 5 U.S.C. 301 and 552; 26 U.S.C. 4181, 4182, 5123, 5203, 5207, 5275, 5367, 5415, 5504, 5555, 5684(a), 5741, 5761(b), 5802, 6020, 6021, 6064, 6102, 6155, 6159,

6201, 6203, 6204, 6301, 6303, 6311, 6313, 6314, 6321, 6323, 6325, 6326, 6331–6343, 6401–6404, 6407, 6416, 6423, 6501–6503, 6511, 6513, 6514, 6532, 6601, 6602, 6611, 6621, 6622, 6651, 6653, 6656–6658, 6665, 6671, 6672, 6701, 6723, 6801, 6862, 6863, 6901, 7011, 7101, 7102, 7121, 7122, 7207, 7209, 7214, 7304, 7401, 7403, 7406, 7423, 7424, 7425, 7426, 7429, 7430, 7432, 7502, 7503, 7505, 7506, 7513, 7601–7606, 7608–7610, 7622, 7623, 7653, 7805.

28. [The proposed amendatory instructions and the proposed amended regulatory text for part 70 are the same as the amendatory instructions and the amended regulatory text set forth in the temporary rule on this subject published elsewhere in this issue of the **Federal Register**.]

Signed: October 17, 2008.

John J. Manfreda,
Administrator.

Approved: March 20, 2009.

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

Editorial Note: This document was received in the Office of the Federal Register on July 15, 2009.

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