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New World Wine Producer Countries

Mutual Acceptance Agreement

By Robert Tobiassen (202) 927-7772

At their meeting on October 4-5, 2000, in Sonoma, California, New World Wine Producer Countries (Argentina, Australia, Canada, Chile, New Zealand, South Africa, and the United States of America) advanced negotiations of a Mutual Acceptance Agreement on oenological practices. The Agreement will facilitate trade in wine by Parties accepting wines made in conformity with the exporting country's regulatory requirements relating to oenological practices. New World Wine Producer Countries will initial the final text as soon as their respective internal review procedures permit. The Agreement will be open to membership by others agreeing to undertake its obligations. ❒

Final Regulations for Roll-Your-Own Tobacco

By Robert Ruhf (202) 927-8210

On September 25, 2000, the final rule that implemented the provision of the Balanced Budget Act of 1997 requiring that manufacturers of roll-your-own tobacco obtain a permit was published in the Federal Register. (Go to http://www.atf.treas.gov/regulations/td429.pdf). In addition to the permit requirements, this final rule addressed provisions for records, marks, labels, and notices. In response to comments received, it allows manufacturers to mark packages with the term "cigarette tobacco" as an alternative to the terms "roll-your-own tobacco" or "Class J". Also, it adopted most of the temporary rules of regarding roll-your-own tobacco published earlier. (Go to http://www.atf.treas.gov/regulations/td424.htm). ❒

CALENDAR

November 9	OIV Coordinating Committee Washington, DC
November 11-15	IACP Conference San Diego, CA

Labeling of Flavored Wines

By Jim Ficaretta (202) 927-8210

On October 6, 2000, we published the final rule concerning the labeling of flavored wine products (T.D. ATF-431). The final regulations, which become effective January 1, 2001, prohibit the use of any varietal designation (e.g., Chardonnay), type designation of varietal significance (e.g., Muscatel), semi-generic geographic type designation (e.g., Chablis), or geographic distinctive designation (e.g., Bordeaux) in statements of composition for flavored wines and other wine specialty products. The final regulations also provide that references on labels to such designations in the brand name, product name, or fanciful name are limited to standard grape wines. In addition, any other use of such designations on other than a standard grape wine is presumed misleading. Upon the effective date of the final rule, applications for certificates of label approval must be in compliance with the regulations.

We also wish to remind industry members that, in accordance with the regulations (27 CFR 13.51 and 13.72(a)(2)), upon the effective date of the final rule certificates of label approval that are not in compliance with the regulations will be revoked by operation of regulation. Certificate holders must voluntarily surrender all certificates that are no longer in compliance and submit applications for new certificates that are in compliance with the new requirements. We believe that the final regulations will ensure that consumers are not misled as to the identity of the products they purchase. ❒

New Assistant Chief for NRC

Announcing

By Allen McClaskey (513) 684-3334

As of November 5, 2000, the National Revenue Center (NRC) will have a second Assistant Chief (Programs). James McCoy is scheduled to report to the Cincinnati facility on that date and begin sharing the duties now being handled by the Chief, NRC, Roger Bowling and Assistant Chief (Operations), Kim Flesch. The NRC is the ATF office which processes all original permit applications and qualifying documents for alcohol and tobacco industry members. They examine and audit periodic reports and excise tax returns for all commodities including the firearms/ammunition manufacturers excise tax. In addition, the NRC also administers the special occupational tax program, processes claims, initiates collection actions, and generally responds to inquiries from regulated industry members.

James McCoy comes to the NRC from Texas where he has been serving since early 1999 as Area Supervisor in the San Antonio Industry Operations Office of the Houston Field Division. McCoy was raised in Illinois and graduated with a B.S. from Illinois State University in 1977. He started with ATF in 1978 as an Inspector working for the St. Louis Area Office and spent nine years as an Inspector working in Illinois, Nebraska, Wisconsin, and Alabama. He became a Tax Specialist in Atlanta's Southeast Technical Services Office for three years and then served for nine years as a Senior Operations Officer in Atlanta. He brings to the NRC experience in all types of permit and tax activities with ATF. ❒

Questions or suggestions relating to the Alcohol & Tobacco Newsletter should be directed to the Editor by fax at (202) 927-5611 or by mail at the following address: Bureau of ATF, 650 Massachusetts Avenue, NW, Room 8110, Attention: Donna Smith, Editor, Alcohol & Tobacco Newsletter, Washington, DC 20226.

Reduced Tax for Small Brewers, Tax Credit for Small Wineries and Controlled Groups

By Industry Analysts Charlie Tull (210) 805-277 and Perky Ramroth (415) 744-1082

Excise tax may be paid at a reduced rate (beer) or with a tax credit (wine), if certain eligibility requirements are met. The privileges and restrictions apply to all members of a controlled group of brewers or wineries, as follows:

Small Brewer's Reduced Rate: Section 5051(a)(2) of Title 26 U.S.C. provides for a reduced rate of tax on the first 60,000 barrels of beer removed for consumption or sale by a brewer during a calendar year. To be eligible to pay the reduced rate of tax, a brewer:

(1) Shall brew or produce the beer at a qualified brewery in the United States; **(**2) May not produce more than 2,000,000 barrels of beer per calendar year; and (3) May not be a member of a "controlled group" of brewers whose members together produce more than 2,000,000 barrels of beer per calendar year.

Brewers *(or controlled groups of brewers)* who produce not more than 2,000,000 barrels annually pay $7.00 excise tax per barrel on the first 60,000 barrels of beer removed for consumption or sale in a calendar year. The rate of tax increases to $18.00 per barrel thereafter.

To determine compliance with the 2,000,000-barrel limitation, a brewer *(or controlled groups of brewers)* must include both beer produced at qualified breweries within the United States and beer produced outside of the United States. Brewers *(or controlled groups of brewers)* who operate more than one brewery must include the combined production of beer at all their breweries in determining eligibility under the 2,000,000-barrel limitation.

For the purpose of determining eligibility for payment of the reduced rate of tax on beer, production of beer is defined as beer that is recorded in the brewer's daily records *(including water added after production is determined)* and reported in the Brewer's Report of Operations, Form 5130.9.

Small Wine Producer's Credit. Similar provisions apply to wineries *(or controlled groups of wineries)* when determining eligibility for an wine excise tax credit (26 U.S.C.5041(c)). To be eligible for the small producer's tax credit --

(1) A person (a winery) may not produce more than 250,000 gallons of wine per calendar year; (2) The credit applies only to the first 100,000 gallons of wine (other than champagne and other sparkling wine) removed in such year for consumption or sale; (3) The credit applies to wine produced only at qualified wine premises in the United States; and (4) The production and removals of *all members of a controlled group* are treated as if they were the production and removals of a single taxpayer for the purpose of determining what credit may be used by such person. It will be used by all members of the controlled group, regardless of the production and removals from any single premises.

"Production" is defined for these purposes as wine produced by fermentation and any increases in the volume of such wine due to amelioration, wine spirits addition, sweetening, the production of formula wine and wine produced outside the United States by the same person. "Removals" include wine removed from qualified bonded wine premises by such person, and wine removed by a transferee (another bonded wine premises) on behalf of the small producer who owns such wine.

A controlled group is defined in 26 U.S.C. sections 1563(a) and 5051(a)(2)(B). Examples of this type of business structure include, but are not limited to: parent-subsidiary controlled groups; brother-sister controlled groups, and combined groups. Fifty-one percent stock ownership in a corporation need not be direct but may be acquired through an option to buy stock, attribution from partnerships, corporations, or estates and by family holdings.

Details about the reduced rate of beer tax and the small winery tax credit are given in the Beer Regulations at 27 CFR 25.152 and in the Wine Regulations at 27 CFR 24.278-.279. Complete texts are available at http://www.atf.treas.gov.

You may contact the ATF National Revenue Center at (513) 684-6186 for further details. ❐

Petitions in Review

By Jennifer Berry (202) 927-8210

The following petitions are in review: **Albariño -** a white grape, most commonly grown in Spain and Portugal and **Black Corinth** - a vitis vinifera grape which will be used to make dessert wines. ❐

ALFD's Open House

By Susan Stewart (202) 927-8140

The Alcohol Labeling and Formulation Division cordially invites you to an open house on Monday, November 6, 2000, from 1:00 p.m. – 4:00 p.m. at the Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Room 3400, Washington, DC. Topics of discussion will include E-filing, import/export issues, advertising, and trade practices. Please RSVP by November 1, 2000, at our toll free number: 866-927-ALFD (2533) or email at alfd@atfhq.atf.treas.gov. Please include your name, phone number and persons attending. ❐