

spirits with no wine or flavors content, the effective tax rate equals the rate of tax imposed by 26 U.S.C. 5001 or 7652.

*Eligible, or eligible for drawback.* When used with reference to spirits, this term designates taxpaid spirits which have not yet been used in nonbeverage products.

*Filed.* Subject to the provisions of §§ 70.305 and 70.306 of this chapter, a claim for drawback or other document or payment submitted under this part is generally considered to have been “filed” when it is received by the office of the proper Government official; but if an item is mailed timely with postage prepaid, then the United States postmark date is treated as the date of filing.

*Food products.* Includes food adjuncts, such as preservatives, emulsifying agents, and food colorings, which are manufactured and used, or sold for use, in food.

*Intermediate products.* Products to which all three of the following conditions apply: they are made with taxpaid distilled spirits, they have been disapproved for drawback, and they are made by the manufacturer exclusively for its own use in the manufacture of nonbeverage products approved for drawback. However, ingredients treated as unfinished nonbeverage products under § 17.127 are not considered to be intermediate products.

*Medicines.* Includes laboratory stains and reagents for use in medical diagnostic procedures.

*Month.* A calendar month.

*Nonbeverage products.* Medicines, medicinal preparations, food products, flavors, flavoring extracts, or perfume, which are manufactured using taxpaid distilled spirits, and which are unfit for use for beverage purposes.

*Person.* An individual, trust, estate, partnership, association, company, or corporation.

*Proof gallon.* A gallon of liquid at 60 degrees Fahrenheit, which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit (referred to water at 60 degrees Fahrenheit as unity), or the alcoholic equivalent thereof.

*Quarter.* A 3-month period beginning January 1, April 1, July 1, or October 1.

*Recovered spirits.* Taxpaid spirits that have been salvaged, after use in the manufacture of a product or ingredient, so that the spirits are reusable.

*Special tax.* The special (occupational) tax on manufacturers of nonbeverage products, imposed by 26 U.S.C. 5131.

*Subject to drawback.* This term is used with reference to spirits. Eligible spirits become “subject to drawback” when they are used in the manufacture of a nonbeverage product. When spirits have become “subject to drawback,” they may be included in the manufacturer’s claim for drawback of tax covering the period in which they were first used.

*Tax year.* The period from July 1 of one calendar year through June 30 of the following year.

*Taxpaid.* When used with respect to distilled spirits, this term shall mean that all taxes imposed on such spirits by 26 U.S.C. 5001 or 7652 have been determined or paid as provided by law.

*This chapter.* Chapter I of title 27 of the Code of Federal Regulations.

*U.S.C.* The United States Code.

[T.D. ATF-379, 61 FR 31412, June 20, 1996, as amended by T.D. ATF-436, 66 FR 5470, Jan. 19, 2001; T.D. TTB-44, 71 FR 16926, Apr. 4, 2006]

## Subpart C—Special Tax

### § 17.21 Payment of special tax.

(a) *General.* Except as otherwise provided in paragraph (b) of this section, each person who uses taxpaid distilled spirits in the manufacture or production of nonbeverage products shall pay special tax as specified in § 17.22 in order to be eligible to receive drawback on the spirits so used. Special tax shall be paid for each tax year during which spirits were used in the manufacture of a product covered by a drawback claim. If a claim is filed covering taxpaid distilled spirits used during the preceding tax year, and special tax has not been paid for the preceding tax year, then special tax for the preceding tax year shall be paid. Regardless of the portion of a tax year covered by a claim, the full annual special tax shall be paid. The manufacturer is not required to pay the special tax if drawback is not claimed.

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(b) *Suspension of tax.* During the period from July 1, 2005, through June 30, 2008, the rate of the tax described in paragraph (a) of this section is zero. Accordingly, payment of the tax is not a prerequisite for claiming drawback on spirits used during that period. However, the drawback claimant still must register by filing the special tax return on Form 5630.5 during the suspension period even though the amount of tax due is zero.

[T.D. ATF-379, 61 FR 31412, June 20, 1996, as amended by T.D. TTB-36, 70 FR 62241, Oct. 31, 2005]

### § 17.22 Rate of special tax.

Effective January 1, 1988, the rate of special tax is \$500 per tax year for all persons claiming drawback on distilled spirits used in the manufacture or production of nonbeverage products, except that the tax rate is zero during the suspension period described in § 17.21(b).

[T.D. ATF-379, 61 FR 31412, June 20, 1996, as amended by T.D. TTB-36, 70 FR 62241, Oct. 31, 2005]

### § 17.23 Special tax for each place of business.

Subject to § 17.21(b), a separate special tax shall be paid for each place where distilled spirits are used in the manufacture or production of nonbeverage products, except for any such place in a tax year for which no claim is filed, or no drawback is paid, on spirits used at that place.

[T.D. ATF-379, 61 FR 31412, June 20, 1996, as amended by T.D. TTB-36, 70 FR 62241, Oct. 31, 2005]

### § 17.24 Time for payment of special tax.

(a) *General.* Special tax may be paid in advance of actual use of distilled spirits. Special tax shall be paid before a claimant may receive drawback. Special tax may be paid without penalty under 26 U.S.C. 5134(c) at any time prior to completion of final action on the claim.

(b) *Suspension of tax.* The rate of special tax is zero during the period from July 1, 2005, through June 30, 2008 (see § 17.21(b)). During this period, the registration requirement continues. The

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drawback claimant must register by filing a special tax return, Form 5630.5. The claimant may register without penalty under 26 U.S.C. 5134(c) at any time prior to completion of final action on the first claim submitted for each tax year.

[T.D. ATF-379, 61 FR 31412, June 20, 1996, as amended by T.D. TTB-36, 70 FR 62241, Oct. 31, 2005]

### SPECIAL TAX RETURNS

### § 17.31 Filing of return and payment of special tax.

Special tax shall be paid by return. The prescribed return is TTB Form 5630.5, Special Tax Registration and Return. Special tax returns, with payment of tax, shall be filed with TTB in accordance with instructions on the form, and the filing of a return is required for registration purposes even though no tax is due during the suspension period described in § 17.21(b).

(26 U.S.C. 6091, 6151)

[T.D. ATF-379, 61 FR 31412, June 20, 1996, as amended by T.D. TTB-36, 70 FR 62241, Oct. 31, 2005]

### § 17.32 Completion of TTB Form 5630.5.

(a) *General.* All of the information called for on Form 5630.5 shall be provided, including:

- (1) The true name of the taxpayer.
- (2) The trade name(s) (if any) of the business(es) subject to special tax.
- (3) The employer identification number (see §§ 17.41-43).
- (4) The exact location of the place of business, by name and number of building or street, or if these do not exist, by some description in addition to the post office address. In the case of one return for two or more locations, the address to be shown shall be the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer).
- (5) The class of special tax to which the taxpayer is subject or to which the return relates during the suspension period described in § 17.21(b).
- (6) Ownership and control information: The name, position, and residence address of every owner of the business and of every person having power to control its management and policies