

of this section, the second semi-monthly period for the month of September shall be divided into two payment periods, from the 16th day through the 26th day, and from the 27th day through the 30th day. The proprietor shall file a return on Form 5000.24, and make remittance, for the period September 16-26, no later than September 29. The proprietor shall file a return on Form 5000.24, and make remittance, for the period September 27-30, no later than October 14.

(ii) *Taxpayment not by electronic fund transfer.* In the case of taxes not required to be remitted by electronic fund transfer as prescribed by § 24.272, the second semi-monthly period of September shall be divided into two payment periods, from the 16th day through the 25th day, and the 26th day through the 30th day. The proprietor shall file a return on Form 5000.24, and make remittance, for the period September 16-25, no later than September 28. The proprietor shall file a return on Form 5000.24, and make remittance, for the period September 26-30, no later than October 14.

(2) *Amount of payment: Safe harbor rule.* (i) Taxpayers are considered to have met the requirements of paragraph (c)(1)(i) of this section, if the amount paid no later than September 29 is not less than 11/15 (73.3 percent) of the tax liability incurred for the semi-monthly period beginning on September 1 and ending on September 15, and if any underpayment of tax is paid by October 14.

(ii) Taxpayers are considered to have met the requirements of paragraph (c)(1)(ii) 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 semi-monthly period beginning on September 1 and ending on September 15, and if any underpayment of tax is paid by October 14.

(3) *Last day for payment.* If the required due date for taxpayment for the periods September 16-25 or September 16-26 as applicable, falls on a Saturday or legal holiday, the return and remittance shall be due on the immediately preceding day. If the required due date falls on a Sunday, the return and re-

mittance shall be due on the immediately following day.

(4) *Example. Payment of tax for the month of September.* (i) *Facts.* X, a proprietor required to pay taxes by electronic fund transfer, incurred tax liability in the amount of \$30,000 for the first semi-monthly 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.

(ii) *Payment requirement.* X's payment of tax in the amount of \$30,000 for the first semi-monthly period of September is due no later than September 29 (§ 24.271(b)). X's payment of tax for the period September 16-26 is also due no later than September 29 (§ 24.271(c)(1)(i)). X may use the safe harbor rule to determine the amount of payment due for the period of September 16-26 (§ 24.271(c)(2)). Under the safe harbor rule, X's payment of tax must equal \$21,990.00, 11/15ths of the tax liability incurred during the first semi-monthly period of September. Additionally, X's payment of tax in the amount of \$2,000 for the period September 27-30 must be paid no later than October 14 (§ 24.271(c)(1)(i)). X must also pay the underpayment of tax, \$23,010.00, for the period September 16-26, no later than October 14 (§ 24.271(c)(2)).

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[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-365, 60 FR 33668, June 28, 1995; T.D. TTB-41, 71 FR 5602, Feb. 2, 2006]

§ 24.272 Payment of tax by electronic fund transfer.

(a) *General.* (1) During a calendar year any proprietor who is liable for a gross amount of wine excise tax equal to or exceeding \$5 million combining tax liabilities incurred under this part and parts 26 and 27 of this chapter, shall during the succeeding calendar year use a financial institution in making payment by electronic fund transfer (EFT) of wine taxes for that year. A proprietor who is required by this section to make remittance by EFT may not effect payment of wine taxes by cash, check, or money order as described in § 24.271.

(2) For the purposes of this section, the dollar amount of tax liability is defined as the gross tax liability on all taxable withdrawals and importations (including wines brought into the United States from Puerto Rico or the Virgin Islands) during the calendar year, without regard to any drawback, credit, or refund, for all premises from which the activities are conducted by the proprietor.

(3) For the purposes of this section, a proprietor includes a controlled group of corporations, as defined in 26 U.S.C. 5061 (e)(3). Also, the rules for a “controlled group of corporations” apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50 percent control over a group consisting of corporations and one, or more, partnerships and/or sole proprietorships, all of the members of the controlled group are one taxpayer for the purpose of determining who is required to make remittances by EFT.

(4) A proprietor who is required by this section to make remittances by EFT shall, for each bonded wine premises from which wine is withdrawn upon determination of tax, make a separate EFT remittance and file a separate tax return.

(b) *Requirements.* (1) On or before January 10 of each calendar year, except for a proprietor already remitting the tax by EFT, each proprietor who was liable during the previous calendar year for a gross amount of wine excise tax equal to or exceeding \$5 million, combining tax liabilities incurred under this part and parts 26 and 27 of this chapter, shall give written notice to the appropriate TTB officer agreeing to make remittances by EFT.

(2) For each return filed in accordance with this subpart, the proprietor shall direct the proprietor’s financial institution to make an electronic fund transfer in the amount of the taxpayment to the Treasury Account as provided in paragraph (e) of this section. The request will be made to the financial institution early enough for the transfer of funds to be made to the Treasury Account by no later than the close of business on the last day for filing the return as prescribed in §24.271. The request will take into account any

time limit established by the financial institution.

(3) If the proprietor was liable during the preceding calendar year for less than \$5 million in wine excise taxes, combining tax liabilities incurred under this part and parts 26 and 27 of this chapter, the proprietor may choose either to continue remitting the tax as provided in this section or to remit the tax with return as prescribed by §24.271. Upon filing the first return on which the proprietor chooses to discontinue remittance of the tax by EFT and to begin remittance of the tax with the tax return, the proprietor shall notify the appropriate TTB officer by attaching a written notification to the tax form stating that no wine excise tax is due by EFT because the tax liability during the preceding calendar year was less than \$5 million, and that the remittance will be filed with the tax return.

(c) *Remittance.* (1) The proprietor shall show on the tax return information about remitting the tax for that return by EFT and shall file the return with TTB in accordance with the instructions on the tax form.

(2) Remittances will be considered as made when the taxpayment by electronic fund transfer is received by the Treasury Account. For purposes of this section, a taxpayment by electronic fund transfer will be considered as received by the Treasury Account when it is paid to a Federal Reserve Bank.

(3) When the proprietor directs the financial institution to effect an electronic fund transfer message as required by paragraph (b) (2) of this section, the transfer data record furnished to the proprietor through normal banking procedures will serve as the record of payment, and will be retained as part of the required records.

(d) *Failure to make a taxpayment by EFT.* The proprietor is subject to a penalty imposed by 26 U.S.C. 5684, 6651, and 6656, as applicable, for failure to make a taxpayment by EFT on or before the close of business on the prescribed last day for filing.

(e) *Procedure.* Upon the notification required under paragraph (b)(1) of this section, the appropriate TTB officer will issue to the proprietor an TTB Procedure entitled, Payment of Tax by

Electronic Fund Transfer. This publication outlines the procedure a proprietor follows when preparing returns and EFT remittances in accordance with this subpart. The United States Customs Service will provide the proprietor with instructions for preparing EFT remittances for payments to be made to the United States Customs Service for payment of excise tax on imported wine. (Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended (26 U.S.C. 5061))

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§ 24.273 Exception to filing semi-monthly or quarterly tax returns.

(a) *Eligibility for annual filing.* A proprietor may file the Excise Tax Return, Form 5000.24, and remittance, within 30 days after the end of the calendar year instead of semi-monthly or quarterly as provided in § 24.271, if the proprietor has not given a bond for deferred payment of wine excise tax and if the proprietor:

(1) Paid wine excise taxes in an amount less than \$1,000 during the previous calendar year, or

(2) Is the proprietor of a newly established bonded wine premises and expects to pay less than \$1,000 in wine excise taxes before the end of the calendar year.

(b) *Loss of eligibility for annual filing.*

(1) If before the close of the current calendar year the wine excise tax owed will exceed the amount of the coverage under the proprietor's operations bond for wine removed from bonded wine premises on which tax has been determined but not paid, the proprietor will file an Excise Tax Return with the total remittance on the date the wine excise tax owed will exceed such amount and file an aggregate Excise Tax Return within 30 days after the close of the calendar year showing the total wine tax liability for such calendar year. If before the close of the current calendar year the wine excise tax liability (including any amounts

paid or owed) equals \$1,000 or more, the proprietor will commence semi-monthly or quarterly filing of the wine Excise Tax Returns and making of payments as required by § 24.271.

(2) If there is a jeopardy to the revenue, the appropriate TTB officer may deny the exceptions to filing tax returns provided in this section at any time.

(c) *Other rules apply.* A proprietor who files under this section is subject to the failure to pay or file provisions of § 24.274.

[T.D. TTB-41, 71 FR 5602, Feb. 2, 2006]

§ 24.274 Failure to timely pay tax or file a return.

Penalties for failure to pay tax at the time required, for willful refusal to pay the tax and for fraudulent nonpayment of tax are provided for in 26 U.S.C. 5661 and 6656. In addition to these penalties, there is a penalty for the delinquent filing of a tax return, imposed as an addition to the tax shown on the return, amounting to five percent for each month or fraction thereof of the delinquency, not exceeding 25 percent in the aggregate, unless it is shown that the delinquency is due to reasonable cause and not to willful neglect. (Sec. 201, Pub. L. 85-859, 72 Stat. 1407, as amended, 1410, as amended (26 U.S.C. 5661, 5684, 6651, 6656))

§ 24.275 Prepayment of tax.

(a) *General.* The proprietor shall, before removal of wine for consumption or sale, file Excise Tax Return, TTB F 5000.24, with remittance, where:

(1) Required to prepay tax under § 24.276; or,

(2) The tax deferral bond is not in the maximum penal sum and the tax determined and unpaid at any one time exceeds the penal sum of the bond by more than the amount of such tax covered by the wine operations coverage of the wine bond; or,

(3) There is no approved tax deferral bond and the total amount of tax unpaid at any one time exceeds the amount of the wine operations coverage of the wine bond designated for wine removed from bonded wine premises on which tax has been determined but not paid.