

a taxpaid wine bottling house. However, under 26 U.S.C. 5148(a), the tax rate is zero during the suspension period described in §24.50(c).

(b) *Reduced rate for small proprietors.* Except during the suspension period described in §24.50(c) when the tax rate is zero, title 26 U.S.C. 5081(b) provides for a reduced rate of \$500 per year with respect to any proprietor of a bonded wine premises or a taxpaid wine bottling house whose gross receipts (for the most recent taxable year ending before the first day of the taxable period to which the special (occupational) tax imposed by §24.50 relates) are less than \$500,000. The “taxable year” to be used for determining gross receipts is the taxpayer’s income tax year. All gross receipts of the taxpayer will be included, not just the gross receipts of the business subject to special (occupational) tax. Proprietors of new businesses that have not yet begun a taxable year, as well as proprietors of existing businesses that have not yet ended a taxable year, who commence a new activity subject to special (occupational) tax, qualify for the reduced special (occupational) tax rate, unless the business is a member of a “controlled group”; in that case, the rules of paragraph (c) of this section apply.

(c) *Controlled group.* All persons treated as one taxpayer under 26 U.S.C. 5061(e)(3) shall be treated as one taxpayer for the purpose of determining gross receipts under paragraph (b) of this section. “Controlled group” means a controlled group of corporations, as defined in 26 U.S.C. 1563 and implementing regulations in 26 CFR 1.1563-1 through 1.1563-4, except that the words “at least 80 percent” is replaced by the words “more than 50 percent” in each place they appear in subsection (a) of 26 U.S.C. 1563, as well as in the implementing regulations. Also, the rules for a “controlled group of corporations” apply in similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50% 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 this section.

(d) *Short taxable year.* Gross receipts for any taxable year of less than 12 months will be annualized by multiplying the gross receipts for the short period by 12 and dividing the result by the number of months in the short period, as required by 26 U.S.C. 448(c)(3).

(e) *Returns and allowances.* Gross receipts for any taxable year will be reduced by returns and allowances made during such year under 26 U.S.C. 448(c)(3). (26 U.S.C. 448, 5061, 5081)

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[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. TTB-36, 70 FR 62244, Oct. 31, 2005]

**§ 24.52 Exemption from special (occupational) tax.**

(a) *General.* The proprietor of a bonded wine premises or a taxpaid wine bottling house will not be required to pay special (occupational) tax or to register during the suspension period described in §24.50(c), as a wholesale dealer or retail dealer on account of the sale, at the bonded wine premises or the taxpaid wine bottling house, or at the principal business office as designated in writing to the appropriate TTB officer, of wine which, at the time of sale, is stored at the bonded wine premises or taxpaid wine bottling house, or has been removed from the bonded wine premises to a taxpaid wine premises, the operations of which are integrated with the operations of the bonded wine premises and which is adjacent to or in the immediate vicinity of the bonded wine premises. The proprietor may not have more than one place of sale, as to each bonded wine premises or taxpaid wine bottling house, that will be exempt from special (occupational) tax or registration under this section.

(b) *Place of exemption.* Unless the proprietor has claimed the exemption elsewhere, it will be presumed that the exemption is claimed at the bonded wine premises or taxpaid wine bottling house where the wine or spirits are stored. If exemption from payment of special (occupational) tax or from registration is to be claimed for sales at the principal business office rather

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than for sales at the bonded wine premises or taxpaid wine bottling house, the proprietor shall state such intention in the approved application or file a notice in letter form of this intention with the appropriate TTB officer. Where the exemption is claimed for a place other than the bonded wine premises or taxpaid wine bottling house, the special (occupational) tax will be paid or registration will be made during the suspension period described in § 24.50(c), for any sales made at the bonded wine premises or taxpaid wine bottling house.

(c) *Exception.* Where the proprietor of a bonded wine premises or a taxpaid wine bottling house has not paid special (occupational) tax or has not registered during the suspension period described in § 24.50(c), as a wholesale dealer and consummates sales of wine to another dealer at the purchaser's place of business through a delivery route sales personnel or otherwise, the proprietor of the bonded wine premises or taxpaid wine bottling house shall be required to pay special (occupational) tax or to register during that suspension period, as a wholesale dealer.

(d) *Wholesaler's special (occupational) tax.* A wholesale dealer in liquors who has paid the appropriate special (occupational) tax or who has registered during the suspension period described in § 24.50(c), as provided in part 31 of this chapter will not again be required to pay special (occupational) tax or register as a wholesale dealer because of sales of wine to wholesale or retail dealers in liquors, or to limited retail dealers, at the purchaser's place of business. (Sec. 201, Pub. L. 85-859, 72 Stat. 1340, as amended (26 U.S.C. 5111, 5113, 5142))

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**§ 24.53 Special (occupational) tax returns.**

(a) *General.* Special (occupational) tax is paid by filing TTB F 5630.5, Special Tax Registration and Return, with

payment of tax, in accordance with the instructions on the form. During the suspension period described in § 24.50(c), an annual return is required even though no tax is due.

(b) *Preparation of TTB F 5630.5.* Unless correctly preprinted on a renewal form, all of the information called for on F 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 (occupational) tax.
- (3) The employer identification number (see § 24.45).
- (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 will be the taxpayer's principal place of business (or principal office, in case of a corporate taxpayer).
- (5) The class(es) of special (occupational) tax to which the taxpayer is subject or to which the return relates during the suspension period described in § 24.50(c).

(6) Ownership and control information: that is, the name, position, and residence address of every owner of the business and of every person having power to control its management and policies with respect to the activity subject to special (occupational) tax. "Owner of the business" includes every partner, if the taxpayer is a partnership, and every person owning 10% or more of its stock, if the taxpayer is a corporation. However, the ownership and control information required by this paragraph need not be stated if the same information has been previously provided to TTB in connection with a permit application, and if the information previously provided is still current.

(c) *Multiple locations and/or classes of tax.* A taxpayer subject to special (occupational) tax (or required to register during the suspension period described in § 24.50(c)) for the same period at more than one location or for more than one class of tax shall:

- (1) File one special (occupational) tax return, TTB F 5630.5, with payment of