

distilled spirits or wine at the place and during the period for which the tax was paid (or registration was completed) as a retail dealer in beer. Similarly, any person who pays special tax (or who registers during the suspension period as provided in §31.21(b)) as a wholesale dealer in beer for a period beginning on or after January 1, 1988, (including one who pays such tax under the transition rule of §31.103(b)) is exempt from additional special tax (or from additional registration during the suspension period) as a wholesale dealer in liquors with respect to sales of distilled spirits or wine at the place and during the period for which the tax was paid (or registration was completed) as a wholesale dealer in beer.

(26 U.S.C. 5113, 5143)

[T.D. ATF-285, 54 FR 12610, Mar. 28, 1989. Redesignated by T.D. TTB-25, 70 FR 19884, Apr. 15, 2005; T.D. TTB-36, 70 FR 62250, Oct. 31, 2005]

Subpart G—Partnerships

§ 31.91 Liability of partners.

Any number of persons carrying on one business in partnership at any one place during any tax year shall be required to pay but one special tax (or to register but once during the suspension period as provided in §31.21(b)) for such business.

(72 Stat. 1347; 26 U.S.C. 5143)

[T.D. TTB-36, 70 FR 62250, Oct. 31, 2005]

§ 31.92 Addition of partners or incorporation of partnership.

Except during the suspension period described in §31.21(b), where a number of persons who have paid special tax as partners admit one or more new members to the firm or form a corporation (a separate legal entity) to take over the business, the new firm or corporation shall pay special tax before commencing business. During the suspension period described in §31.21(b), the new firm or corporation must register as a new dealer.

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

[T.D. TTB-36, 70 FR 62250, Oct. 31, 2005]

§ 31.93 Formation of a partnership by two dealers.

Except during the suspension period described in §31.21(b), where two persons, each holding a special tax stamp for a business carried on by himself, form a partnership, the firm shall pay special tax to cover the business conducted by the partnership. During the suspension period described in §31.21(b), if two registered dealers form a partnership, the firm must register as a new dealer.

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

[T.D. TTB-36, 70 FR 62251, Oct. 31, 2005]

§ 31.94 Withdrawal of one or more partners.

When one or more partners withdraw from a partnership which has paid special tax, the remaining partner, or partners, may file with the appropriate TTB officer a notice of succession to the partnership business within 30 days after the change in control, as provided in §31.169, and carry on the same business at the same address for the remainder of the taxable period for which special tax was paid without paying additional special tax. However, except during the suspension period described in §31.21(b), where the remaining partner, or partners, do not file such timely notice of succession, they are required to pay special tax, as provided in §31.170. During the suspension period, the remaining partner or partners must file a new registration on Form 5630.5 within 30 days after the change in control.

(68A Stat. 846, 72 Stat. 1347; 26 U.S.C. 7011, 5143)

[25 FR 6270, July 2, 1960, as amended by T.D. 7008, 34 FR 3664, Mar. 1, 1969. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-251, 52 FR 19335, May 22, 1987. Redesignated and amended by T.D. TTB-25, 70 FR 19884, Apr. 15, 2005; T.D. TTB-36, 70 FR 62251, Oct. 31, 2005; T.D. TTB-44, 71 FR 16948, Apr. 4, 2006]

Subpart H—Payment of Special Tax

§ 31.101 Special tax rates.

(a) *Previous rates.* Prior to January 1, 1988, the special (occupational) taxes

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imposed on dealers in liquors and beer were as follows:

(1) Annual (tax year) rates:

Wholesale dealer in liquors (spirits, wines, beer).....	\$255.00
Wholesale dealer in beer (beer only)	123.00
Retail dealer in liquors (spirits, wines, beer).....	54.00
Retail dealer in beer (beer only).....	24.00

(2) Monthly (calendar month) rates:

Limited retail dealer (spirits, wines, beer).....	\$4.50
Limited retail dealer (wines, beer).....	2.20

(b) General—(1) Current rates. Effective January 1, 1988, special (occupational) taxes are imposed on dealers in liquors and beer at the following rates:

Wholesale dealer in liquors (spirits, wines, beer).....	\$500
Wholesale dealer in beer (beer only)	500
Retail dealer in liquors (spirits, wines, beer)	250
Retail dealer in beer (beer only)	250

(2) Rate during suspension period. During the suspension period described in §31.21(b), the special (occupational) tax rate for all dealers in liquor or beer is zero.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1340, 1343; sec. 1905, Pub. L. 94-455, 90 Stat. 1819 (26 U.S.C. 5111, 5121))

[T.D. ATF-271, 53 FR 17552, May 17, 1988; 54 FR 11866, Mar. 22, 1989. Redesignated by T.D. TTB-25, 70 FR 19884, Apr. 15, 2005; T.D. TTB-36, 70 FR 62251, Oct. 31, 2005]

§31.102 Date special tax is due.

Except during the suspension period described in §31.21(b), special taxes shall be paid on or before July 1 of each year, or before engaging in business. During the suspension period when no tax is due, dealers must register by filing the special tax return, Form 5630.5, before commencement of business and on or before July 1 of each year thereafter.

(72 Stat. 1346; 26 U.S.C. 5142)

[T.D. TTB-36, 70 FR 62251, Oct. 31, 2005]

§31.103 Computation of special tax.

(a) General. In the case of a person engaged in a business subject to special tax during the month of July, the special tax liability shall be reckoned for

the entire tax year beginning July 1 and ending June 30 following. Where business is commenced subsequent to July, the liability shall be reckoned proportionately from the first day of the month in which the liability to a special tax commenced to June 30 following. For example, a person commencing business in August is liable to special tax for 11 months, or eleventwelfths of the annual tax.

(b) Transition rule. A taxpayer who was engaged in a business on January 1, 1988, for which a special (occupational) tax was paid for a taxable period which began before January 1, 1988, and included that date, shall pay an increased special tax for the period January 1, 1988, through June 30, 1988. The increased tax shall not exceed one-half the excess (if any) of (1) the rate of special tax in effect on January 1, 1988, over (2) the rate of such tax in effect on December 31, 1987. The increased special tax shall be paid on or before April 1, 1988.

(72 Stat. 1346; 26 U.S.C. 5142)

[25 FR 6270, July 2, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55843, Sept. 28, 1979; T.D. ATF-271, 53 FR 17554, May 17, 1988. Redesignated by T.D. TTB-25, 70 FR 19884, Apr. 15, 2005]

FILING RETURN AND PAYMENT OF SPECIAL TAX

§31.104 Time for filing return.

Every person who intends to engage in a business subject to special tax under the provisions of this part shall, on or before the date such business is commenced, file a special tax return, Form 5630.5, with payment of applicable tax; and every taxpayer who continues into a new tax year a business subject to special tax under the provisions of this part shall file a Form 5630.5 with applicable tax on or before July 1 of the new tax year. A taxpayer subject to special tax (or required to register during the suspension period described in §31.21(b)) for the same period at two or more locations shall file one special tax return, Form 5630.5, prepared as provided in §31.106, with payment of applicable tax to cover all such locations. If the return and applicable tax are received in the mail and the U.S. postmark on the cover shows