

created under the laws of the State of incorporation.

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

[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, as amended by T.D. ATF-251, 52 FR 19336, May 22, 1987. Redesignated by T.D. TTB-25, 70 FR 19884, Apr. 15, 2005; T.D. TTB-36, 70 FR 62253, Oct. 31, 2005]

§ 31.167 Change in ownership of capital stock.

Additional special tax (or additional registration during the suspension period described in § 31.21(b)) is not required by reason of the sale or transfer of all or a controlling interest in the capital stock of a corporation.

[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, as amended by T.D. ATF-251, 52 FR 19336, May 22, 1987. Redesignated by T.D. TTB-25, 70 FR 19884, Apr. 15, 2005; T.D. TTB-36, 70 FR 62253, Oct. 31, 2005]

§ 31.168 Change in membership of unincorporated club.

Additional special tax (or additional registration during the suspension period described in § 31.21(b)) is not required of an unincorporated club by reason of changes in membership, where such changes do not result in the dissolution thereof and the formation of a new club.

[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, as amended by T.D. ATF-251, 52 FR 19336, May 22, 1987. Redesignated by T.D. TTB-25, 70 FR 19884, Apr. 15, 2005; T.D. TTB-36, 70 FR 62253, Oct. 31, 2005]

§ 31.169 Change of control, persons having right of succession.

Certain persons may, without paying additional special tax, secure the right to carry on the same business at the same address for the remainder of the tax year for which the special tax was paid, or for which registration was made during the suspension period described in § 31.21(b). Such persons are:

(a) The surviving spouse or child, or executor, administrator, or other legal representative of a deceased dealer;

(b) A husband or wife succeeding to the business of his or her living spouse;

(c) A receiver or trustee in bankruptcy, or an assignee for benefit of creditors; and

(d) The partner or partners remaining after death or withdrawal of a member of a partnership.

In order to secure such right, the person or persons continuing the business shall file with TTB, within 30 days from the date on which the successor begins to carry on the business, an amended special tax return on Form 5630.5, showing the basis of the succession, and (except if the change of control occurs during the suspension period described in § 31.21(b) when a special tax stamp is not issued) shall surrender the unexpired special tax stamp or stamps for endorsement of the change in control: *Provided*, That, if the original return, Form 5630.5, was filed under the provisions of § 31.106(b), the person succeeding to the business may deliver the amended return and stamp to any TTB office, or to any TTB officer inspecting the business, in lieu of mailing them to TTB. If the applicant has the right of succession and the return and stamp are submitted on time, the appropriate TTB officer or other TTB officer receiving them will enter the proper endorsement on the stamp and return it to the successor.

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

[T.D. 7110, 36 FR 8036, Apr. 29, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975; as amended at 52 FR 19336, May 22, 1987. Redesignated and amended by T.D. TTB-25, 70 FR 19884, Apr. 15, 2005; T.D. TTB-36, 70 FR 62253, Oct. 31, 2005]

§ 31.170 Failure to perfect right of succession within 30 days.

(a) Except as otherwise provided in paragraph (b) of this section, a person who would have had the privilege of succeeding, as provided in § 31.169, to a business for which the special tax had been paid for the remainder of the taxable period but failed to register such succession within 30 days from the date he began to carry on such business is required to pay special tax, and interest on the amount required to be shown on the return as tax, just as if he were engaging in a new business (as to liability for delinquency penalty see