

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

## § 31.181

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§ 31.109). The amount of tax, delinquency penalty, and interest to be paid shall be computed as provided in §§ 31.103, 31.109, and 31.110.

(b) During the suspension period described in § 31.21(b) when no tax is due and no special tax stamp is issued, a failure to register the succession may result in a penalty under 26 U.S.C. 5603(b).

(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, as amended by T.D. ATF-251, 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]

### Subpart L—Exemptions and Exceptions

#### PERSONS EXEMPT FROM LIQUOR AND BEER DEALER SPECIAL TAXES

##### § 31.181 Single sale of liquors or warehouse receipts.

A single sale of distilled spirits, wines, or beer, or a single sale of one or more warehouse receipts for distilled spirits, unattended by circumstances showing the person making the sale to be engaged in the business, does not subject the vendor to special tax, or to the registration requirement during the suspension period described in § 31.21(b).

(72 Stat. 1340, 1343, 1346; 26 U.S.C. 5111, 5121, 5142)

[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]

##### § 31.182 Proprietors of distilled spirits plants selling certain distilled spirits or wines.

(a) *Exemption of proprietor.* No proprietor of a distilled spirits plant shall be required to pay special tax (or to register during the suspension period described in § 31.21(b)) as a wholesale or retail dealer in liquors on account of the sale at his principal business office as designated in writing to the appropriate TTB officer, or at his distilled

spirits plant, of distilled spirits or wines which, at the time of sale, are stored at his distilled spirits plant, or had been removed from such plant to a taxpaid storeroom the operations of which are integrated with the operations of such plant and which is contiguous or adjacent to, or in the immediate vicinity of, such plant. However, no such proprietor shall have more than one place of sale, as to each plant, that shall be exempt from special tax or registration under this section.

(b) *Place of exemption.* Unless the exemption is claimed elsewhere, it will be presumed that the exemption is claimed at the plant where the spirits or wines are stored. If the proprietor wishes to be exempt from payment of special tax (or from registration during the suspension period described in § 31.21(b)) with respect to sales at his principal business office rather than for sales at his plant, he shall notify the appropriate TTB officer of his intention. Such notice shall be in writing, on letter size paper and shall be submitted in triplicate. On approval, two copies will be returned to the proprietor, one to be filed at the principal office, and the original will be retained by the appropriate TTB officer. Where the exemption is claimed for a place other than the plant, special tax shall be paid (or registration shall be completed during the suspension period described in § 31.21(b)) at the plant if sales are made thereat.

(72 Stat. 1340; 26 U.S.C. 5113)

[25 FR 6270, July 2, 1960. Redesignated and amended by T.D. TTB-25, 70 FR 19884, 19886, Apr. 15, 2005; T.D. TTB-36, 70 FR 62253, Oct. 31, 2005]

##### § 31.183 Proprietors of bonded wine cellars selling certain wines or wine spirits.

(a) *Exemption of proprietor.* No proprietor of a bonded wine cellar shall be required to pay special tax (or to register during the suspension period described in § 31.21(b)) as a wholesale or retail dealer in liquors on account of the sale at his principal business office as designated in writing to the appropriate TTB officer, or at his bonded wine cellar, of wines or wine spirits which, at the time of sale, are stored at his bonded wine cellar, or had been removed