

storage, bottling, and packaging or re-packaging of untaxpaid wine.

*Brewery.* An establishment qualified under this chapter for the production of beer.

*CFR.* The Code of Federal Regulations.

*Dealer.* Any person who sells, or offers for sale, any distilled spirits, wines, or beer.

*Denatured spirits or denatured alcohol.* Spirits to which denaturants have been added as prescribed under this chapter.

*Director of the service center.* A director of an internal revenue service center.

*Distilled spirits or spirits.* That substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof, from whatever source or by whatever process produced.

*Distilled spirits plant.* An establishment qualified under Part 19 of this chapter for the production, storage or processing of distilled spirits.

*District director.* A district director of internal revenue.

*Fiscal year.* The period from October 1 of one calendar year through September 30 of the following year.

*Gallon or wine gallon.* A United States gallon of liquid measure equivalent to the volume of 231 cubic inches.

*Liquor bottle.* A bottle made of glass or earthenware, or of other suitable material approved by the Food and Drug Administration, which has been designed or is intended for use as a container for distilled spirits for sale for beverage purposes and which has been determined by the appropriate TTB officer to adequately protect the revenue.

*Liquors.* Distilled spirits, wines, or beer.

*Liter.* A metric unit of capacity equal to 1,000 cubic centimeters of alcoholic beverage, and equivalent to 33.814 fluid ounces. A liter is divided into 1,000 milliliters. Milliliter or milliliters may be abbreviated as "ml".

*Person.* An individual, a trust, estate, partnership, association or other unincorporated organization, fiduciary, company, or corporation, or the District of Columbia, a State, or a political subdivision thereof (including a city, county, or other municipality).

*Place, or place of business.* The entire office, plant, or area of the business in any one location under the same proprietorship; and passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises shall not be deemed a separation for special tax purposes, if the various divisions are otherwise contiguous.

*Reclaim.* To grind up a liquor bottle or container and use the ground up material to make products other than liquor bottles or containers.

*Recycle.* To grind up a liquor bottle or container and use the ground up material to make new liquor bottles or containers.

*Sale at retail or retail sale.* Sale of liquors to a person other than a dealer.

*Sale at wholesale or wholesale sale.* Sale of liquors to a dealer.

*Special tax.* The occupational tax imposed on a dealer in liquors or a dealer in beer.

*Tax year.* The period from July 1 of one calendar year through June 30 of the following year.

*U.S.C.* The United States Code.

*Wine.* When used without qualification, the term includes every kind (class and type) of product produced on bonded wine premises from grapes, other fruit (including berries), or other suitable agricultural products and containing not more than 24 percent of alcohol by volume. The term includes all imitation, other than standard, or artificial wine and compounds sold as wine. A wine product containing less than one-half of one percent alcohol by volume is not taxable as wine when removed from the bonded wine premises.

(26 U.S.C. 7805 (68A Stat. 917, as amended) 27 U.S.C. 205 (49 Stat. 981, as amended))

[T.D. ATF-48, 43 FR 13541, Mar. 31, 1978, as amended by T.D. ATF-50, 43 FR 37180, Aug. 22, 1978; 44 FR 55843, Sept. 28, 1979; T.D. ATF-62, 44 FR 71693, Dec. 11, 1979; T.D. ATF-114, 47 FR 43949, Oct. 5, 1982; T.D. ATF-344, 58 FR 40355, July 28, 1993. Redesignated and amended by T.D. TTB-25, 70 FR 19884, Apr. 15, 2005; T.D. TTB-44, 71 FR 16947, Apr. 4, 2006]

### Subpart C—Special (Occupational) Taxes

#### §31.21 Basis of tax.

(a) *General.* Except as otherwise provided in paragraph (b) of this section,

special taxes are imposed on persons engaging in or carrying on the business or occupation of selling or offering for sale alcoholic liquors fit for use as a beverage or any alcoholic liquors sold for use as a beverage. The classes of liquor dealer business on which special occupational tax is imposed and the conditions under which such tax is incurred are specified in §§ 31.23 through 31.26. No person shall engage in any business on which the special tax is imposed until he has filed a special tax return as provided in § 31.26 of this part and paid the special tax for such business.

(b) *Suspension of tax.* During the period from July 1, 2005, through June 30, 2008, the rate of the tax described in paragraph (a) of this section is zero. However, liquor dealers must register by filing the special tax return on Form 5630.5 during the suspension period even though the amount of tax due is zero. During the suspension period, as at other times, the special tax return is due on or before commencement of business and on or before July 1 of each year thereafter.

(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-271, 53 FR 17552, May 17, 1988. Redesignated and amended by T.D. TTB-25, 70 FR 19884, Apr. 15, 2005; T.D. TTB-36, 70 FR 62247, Oct. 31, 2005]

### § 31.22 Selling or offering for sale.

Whether the activities of any person constitute engaging in the business of selling or offering for sale is to be determined by the facts in each case, but any course of selling or offering for sale, though to a restricted class of persons or without a view to profit, is within the meaning of the statute.

#### DEALERS CLASSIFIED

### § 31.23 Retail dealer in liquors.

(a) *General.* Every person who sells or offers for sale distilled spirits, wines, or beer to any person other than a dealer is, except as provided in paragraph (b) of this section, a retail dealer in liquors. Except during the suspension period described in § 31.21(b), every retail dealer in liquors shall pay special tax at the rate specified in § 31.101

for such dealer, unless such dealer is exempt from such special tax as provided in paragraph (c) of this section. During the suspension period described in § 31.21(b) when no tax is due, the dealer must register by filing the special tax return, Form 5630.5.

(b) *Persons not deemed to be retail dealers in liquors.* The following persons are not deemed to be retail dealers in liquors within the meaning of 26 U.S.C. chapter 51, and are not required to pay special tax (or to register during the suspension period described in § 31.21(b)) as such dealer:

(1) A retail dealer in beer as defined in § 31.25,

(2) A limited retail dealer as specified in § 31.27, or

(3) A person who only sells or offers for sale distilled spirits, wines, or beer as provided in § 31.188 through § 31.190 or § 31.191(a).

(c) *Persons exempt from special tax.* The following persons are exempt from special tax (and from registration during the suspension period described in § 31.21(b)) as retail dealers in liquors:

(1) A wholesale dealer in liquors selling or offering for sale distilled spirits, wines, or beer, whether to dealers or persons other than dealers, at any place where such wholesale dealer in liquors is required to pay special tax (or to register during the suspension period described in § 31.21(b)) as such dealer.

(2) A wholesale dealer in beer selling or offering for sale beer only, whether to dealers or persons other than dealers, at any place where such wholesale dealer in beer is required to pay special tax (or to register during the suspension period described in § 31.21(b)) as such dealer, or

(3) A person who is exempt from special tax under the provisions of §§ 31.181-31.184, 31.187, or 31.187a.

(72 Stat. 1340, 1343, 1344; 26 U.S.C. 5113, 5121, 5122)

[T.D. TTB-36, 70 FR 62247, Oct. 31, 2005]

### § 31.24 Wholesale dealer in liquors.

(a) *General.* Every person who sells or offers for sale distilled spirits, wines, or beer to another dealer is, except as