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