

§ 31.233

§ 31.233 Requirements when a wholesale dealer in liquors maintains a retail department.

(a) When a wholesale dealer in liquors maintains a separate department on the premises for the retailing of distilled spirits, and the retail sales of distilled spirits normally represent 90 percent or more of the volume of distilled spirits sold, the dealer may “constructively” receive all distilled spirits in the retail department. Sales involving a wholesale transaction may be “constructively” sold through the wholesale department.

(1) *Receipts.* In lieu of maintaining and preparing the records required by §§ 31.225 and 31.226, a wholesale dealer may constructively receive *all* distilled spirits in its retail department. In this case, the receiving document will serve as a receipt for (through) the wholesale department and a disposition (transfer) to the retail department. The receiving document will be maintained by the retail department, as required by § 31.234.

(2) *Dispositions.* In lieu of the records required by § 31.226, a wholesale dealer may constructively sell distilled spirits from its retail department to other dealers. The sales invoice or bill will be filed in the wholesaler’s disposition records and will serve as a record of receipt from the retail department and a record of disposition to another dealer.

(b) Except as provided in paragraph (a) of this section, a wholesale dealer shall prepare and maintain the required records of receipt and disposition as prescribed in §§ 31.225 and 31.226. Transfers between the wholesale and retail departments will be treated in the same manner as any other transaction involving the wholesale department.

(c) When required by § 31.230, a wholesale dealer shall prepare and file the monthly summary report of actual or constructive receipts and dispositions of all distilled spirits.

(d) Wholesale and retail departments need not be physically separated.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, as amended, 1345, as amended, 1395, as amended (26 U.S.C. 5114, 5124, 5555))

[T.D. ATF-116, 47 FR 51572, Nov. 16, 1982. Redesignated and amended by T.D. TTB-25, 70 FR 19884, 19887, Apr. 15, 2005]

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RETAIL DEALER’S RECORDS

§ 31.234 Requirements for retail dealers.

(a) *Records of receipt.* All retail dealers shall keep at their place of business complete records of all distilled spirits, wines, or beer received showing (1) the quantities thereof, (2) from whom received, and (3) the receiving dates. The appropriate TTB officer may, pursuant to an application authorize the records to be maintained at another business premises under the control of the same dealer when it is determined that such maintenance will not cause undue inconvenience to appropriate TTB officers desiring to examine such records. Records of receipts shall consist of all purchase invoices or bills covering distilled spirits, wines, and beer received, or, at the option of the dealer, a book record containing all of the required information.

(b) *Records of sales of 20 wine gallons (75.7 liters) or more.* Every retail dealer who makes sales of distilled spirits, of wines, or of beer in quantities of 20 wine gallons (75.7 liters) or more to the same person at the same time shall prepare and keep a record of each such sale, which shall show (1) the date of sale, (2) the name and address of the purchaser, (3) the kind and quantity of each kind of liquors sold, and (4) the serial numbers of all full cases of distilled spirits included in the sale. Each entry on such record shall be supported by a corresponding delivery receipt (which may be executed on a copy of the sales slip) signed by the purchaser or his agent.

(Approved by the Office of Management and Budget under control number 1512-0354)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1345, 1348, 1395, 1413 (26 U.S.C. 5124, 5146, 5555, 5691))

[T.D. 7130, 36 FR 12853, July 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-34, 41 FR 46861, Oct. 26, 1976. Redesignated and amended by T.D. ATF-116, 47 FR 51572, Nov. 16, 1982; T.D. ATF-172, 49 FR 14942, Apr. 16, 1984. Redesignated and amended by T.D. TTB-25, 70 FR 19884, 19887, Apr. 15, 2005; T.D. TTB-44, 71 FR 16948, Apr. 4, 2006]

FILES OF RECORDS AND REPORTS

PERIOD OF RETENTION

§ 31.235 Filing.

The required records of receipt and disposition of all distilled spirits, as prescribed in §§ 31.225 and 31.226, may be filed in accordance with the wholesaler's regular accounting and record-keeping systems. The required records shall consist of the dealer's own file copies of the receiving or shipping invoices.

(a) Dealers may file records of receipt and disposition in accordance with their own filing system as long as the filing system systematically and accurately accounts for all receipts and dispositions of distilled spirits.

(b) The required records of receipt and disposition will be filed not later than one business day following the date the transaction occurred.

(c) Supporting documents for receipts and dispositions, such as delivery receipts and bills of lading, may be filed in accordance with the wholesaler's regular accounting and record-keeping practices.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, as amended, 1395, as amended (26 U.S.C. 5114, 5555))

[T.D. ATF-116, 47 FR 51573, Nov. 16, 1982. Redesignated and amended by T.D. TTB-25, 70 FR 19884, 19887, Apr. 15, 2005]

§ 31.236 Place of filing.

Prescribed records of receipt and disposition and monthly summary reports required by § 31.230 will be maintained by transaction or reporting date, at the dealer's place of business. The appropriate TTB officer may, pursuant to an application, authorize files, or an individual file, to be maintained at another business location under the control of the dealer, if the alternative location does not cause undue inconvenience to appropriate TTB officers desiring to examine the files.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, as amended (26 U.S.C. 5114))

[T.D. ATF-116, 47 FR 51573, Nov. 16, 1982. Redesignated and amended by T.D. TTB-25, 70 FR 19884, 19887 Apr. 15, 2005; T.D. TTB-44, 71 FR 16948, Apr. 4, 2006]

§ 31.237 Retention of records and files.

All records prescribed by this part, documents or copies of documents supporting these records, and file copies of reports submitted, shall be retained by the person required to keep the documents for a period of not less than three years, and during this period shall be available, during business hours, for inspection and copying by appropriate TTB officers. Furthermore, the appropriate TTB officer may require these records to be kept for an additional period of not more than three years in any case where he determines retention necessary or advisable. Any records, or copies thereof, containing any of the information required by this part to be prepared, wherever kept, shall also be made available for inspection and copying.

(68A Stat. 731 (26 U.S.C. 6001); sec. 201, Pub. L. 85-859, 72 Stat. 1342, 1345, 1348, 1395 (26 U.S.C. 5114, 5124, 5146, 5555))

[T.D. ATF-50, 43 FR 20494, May 12, 1978. Redesignated by T.D. ATF-116, 47 FR 51573, Nov. 16, 1982, and further redesignated and amended by T.D. TTB-25, 70 FR 19884, 19887 Apr. 15, 2005; T.D. TTB-44, 71 FR 16948, Apr. 4, 2006]

§ 31.238 Photographic copies of records.

(a) *General.* Dealers may record, copy, or reproduce records required by this part. Dealers may use any process which accurately reproduces the original record, and which forms a durable medium for reproducing and preserving the original record.

(b) *Copies of records treated as original records.* Whenever records are reproduced under this section, the produced records will be preserved in conveniently accessible files, and provisions will be made for examining, viewing, and using the reproduced record the same as if it were the original record, and it will be treated and considered for all purposes as though it were the original record. All provisions of law and regulations applicable to the original record are applicable to the reproduced record. As used in this section, "original record" means the record required by this part to be maintained or preserved by the dealer, even though it