

period described in §31.21(b)) as such dealer.

(2) 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 62248, Oct. 31, 2005]

§ 31.26 Wholesale dealer in beer.

(a) *General.* Every person who sells or offers for sale beer, but not distilled spirits or wines, to another dealer is, except as provided in paragraph (b) of this section, a wholesale dealer in beer. Except during the suspension period described in §31.21(b), every wholesale dealer in beer is required to 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 when no tax is due, the dealer must register by filing the special tax return, Form 5630.5, in accordance with §31.21(b).

(b) *Persons not deemed to be wholesale dealers in beer.* The following persons are not deemed to be wholesale dealers in beer 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 person who only sells or offers for sale beer, but not distilled spirits or wines, as provided in §31.188 through §31.189 or §31.192, or

(2) A person returning beer for credit, refund or exchange as provided in §31.193.

(c) *Persons exempt from special tax.* (1) The following persons are exempt from special tax (and from registration during the suspension period described in §31.21(b)) as wholesale dealers in beer:

(i) A retail dealer in liquors who consummates sales of distilled spirits, beer or wine, or any combination thereof, to a limited retail dealer at the place where such retail dealer in liquors has paid the special tax (or has registered during the suspension period described in §31.21(b)) as such dealer for the current tax year,

(ii) A retail dealer in beer who consummates sales of beer to a limited dealer at the place where such retail

dealer in beer has paid the special tax (or has registered during the suspension period described in §31.21(b)) as such dealer for the current tax year, or

(iii) A person who is exempt from such tax under the provisions of §§31.181 and 31.184.

(2) A wholesale dealer in beer who has paid the special tax (or has registered during the suspension period described in §31.21(b)) as such dealer at the place, or places, from which he conducts his selling operations is exempt from additional special tax (or from additional registration during the suspension period described in §31.21(b)) on account of his sales of beer to other dealers at the places of business of such dealers.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1340, as amended, 1344, as amended; sec. 1905, Pub. L. 94-455, 90 Stat. 1819 (26 U.S.C. 5111, 5112, 5113, 5123))

[T.D. TTB-36, 70 FR 62248, Oct. 31, 2005]

§ 31.27 Limited retail dealer; persons eligible.

Any person selling distilled spirits, beer or wine, or any combination thereof, to members, guests, or patrons of bona fide fairs, reunions, picnics, carnivals, or similar outings, and any fraternal, civic, church, labor, charitable, benevolent, or ex-servicemen's organization selling distilled spirits, beer or wine, or any combination thereof, on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it, is a "limited retail dealer," if the person or organization is not otherwise engaged in business as a dealer.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1344; sec. 1905, Pub. L. 94-455, 90 Stat. 1819, as amended (26 U.S.C. 5122))

[T.D. ATF-271, 53 FR 17552, May 17, 1988. Redesignated by T.D. TTB-25, 70 FR 19884, Apr. 15, 2005]

§ 31.28 Sales of 20 wine gallons (75.7 liters) or more.

Any person who sells or offers for sale distilled spirits, wines, or beer, in quantities of 20 wine gallons (75.7 liters) or more, to the same person at the same time, shall be presumed and held to be a wholesale dealer in liquors or a wholesale dealer in beer, as the