

Correction of Publication

■ Accordingly, 26 CFR part 1 is corrected by making the following correcting amendment:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805 * * *

§ 1.1441-6 [Corrected]

■ **Par. 2.** Section 1.1441-6(b)(1) is amended by removing the language “If the beneficial owner is related to the person obligated to pay the income, within the meaning of section 267(b) or 707(b), the withholding certificate must also contain a representation that the beneficial owner will file the statement required under § 301.6114-1(d) of this chapter (if applicable). The requirement to file an information statement under section 6114 for income subject to withholding applies only to amounts received during the taxpayer’s taxable year that, in the aggregate, exceed \$500,000. See § 301.6114-1(d) of this chapter.”.

Guy R. Traynor,

Chief, Publications and Regulations Branch,
Legal Processing Division, Associate Chief
Counsel (Procedure and Administration).

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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 4

[T.D. TTB-45; Re: Notice No. 49]

RIN 1513-AB11

Change to Vintage Date Requirements (2005R-212P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau is adopting as a final rule, with some changes, a proposed amendment to the regulations pertaining to wine vintage date labeling.

DATES: *Effective date:* June 1, 2006.

FOR FURTHER INFORMATION CONTACT: Marjorie D. Ruhf, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Washington, DC 20220; telephone 202-927-8202.

SUPPLEMENTARY INFORMATION:

Background on Wine Labeling

TTB Authority

The Federal Alcohol Administration Act (the FAA Act, 27 U.S.C. 201 *et seq.*) gives the Secretary of the Treasury the authority to issue regulations with respect to the labeling and advertising of wines, distilled spirits, and malt beverages. In particular, section 105(e) of the FAA Act, 27 U.S.C. 205(e), provides that such alcohol beverages must be labeled in compliance with regulations that prohibit deception of the consumer, provide the consumer with “adequate information” as to the identity and quality of the product, and prohibit false or misleading statements. The Secretary’s authority to administer these regulations has been delegated to the Alcohol and Tobacco Tax and Trade Bureau (TTB).

Current Vintage Date Requirements

Part 4 of the TTB regulations (27 CFR part 4) contains the rules governing labeling of wine. The current rules for the use of a vintage date on a wine label are found at 27 CFR 4.27. Section 4.27(a) provides that at least 95 percent of a vintage-dated wine must have been derived from grapes harvested in the calendar year shown on the label and, further, that the wine must be labeled with an appellation of origin other than a country (which does not qualify for vintage labeling).

Before 1972, regulations in part 4 defined the phrase “vintage wine” as wine that was made “wholly from grapes gathered in the same calendar year and grown and fermented in the same viticultural area, and conforming to the standards prescribed in Classes 1, 2, and 3 of § 4.21.” In T.D. 7185 (37 FR 7974), published on April 22, 1972, the Internal Revenue Service (IRS), which administered the FAA Act at the time, amended that definition to allow the addition of up to 5 percent of other wines to vintage wine. An industry association had requested this change in order to allow producers to replace wine lost by evaporation and leakage during the aging period. In adopting the change, the IRS recognized that requiring vintage wine to be derived wholly from grapes gathered in the stated year was “unnecessarily restrictive when viewed in the light of practices in some of the principal wine producing countries of the world.” The IRS also concluded that liberalization of the vintage date regulations “would not be adverse to the consumer interest.”

On August 23, 1978, our predecessor Agency, the Bureau of Alcohol, Tobacco and Firearms (ATF), again amended the vintage date regulations to remove the

requirement that 95 percent of the grapes be grown in the same viticultural area. See T.D. ATF-53 (43 FR 37672). ATF stated, “We concur that the two provisions should be divorced, and that vintage should refer only to the year of harvest. * * * The percentage required to come from the labeled appellation of origin will vary with the type of appellation * * *.”

Vintage Date Petition

On April 12, 2005, the Wine Institute, a trade association of California wineries, submitted a petition to TTB to amend § 4.27(a) to allow wine labeled with a State, multistate, county, or multicounty appellation of origin (or the foreign equivalent of a State or county) to bear a vintage date if at least 85 percent of the wine is derived from grapes harvested in the labeled calendar year. In the case of wine with an American viticultural area (or its foreign equivalent) as an appellation of origin, the petitioner proposed to retain the current requirement that at least 95 percent of the grapes in a vintage-dated wine be harvested in the year shown on the label. The petitioner noted that TTB already set separate standards for viticultural areas and other appellations of origin with regard to the percentage of grapes that must be grown in the labeled appellation. We note in this regard that, pursuant to 27 CFR 4.25, wine is qualified for a country, State, or county appellation of origin if at least 75 percent of the wine is derived from grapes grown in the labeled area and other conditions are met, while the requirement for viticultural area appellations of origin is 85 percent.

In support of its request, the petitioner provided information on the vintage date labeling requirements of other wine producing countries. According to this material, Australia, New Zealand, and the Member States of the European Union have an 85-percent, same-year content requirement for vintage-dated wine, while Chile and South Africa require only that 75 percent of the grapes in a vintage-dated wine be grown in the year shown on the label. In addition to showing the widespread use of the 85-percent standard in other wine-producing countries, the petitioner stated that the disparity in standards raised a concern that domestic vintage wines may be competing with imported vintage wines that do not conform to the 95-percent standard.

The petitioner asserted that the proposed amendment would benefit both U.S. winemakers and American consumers because of the advantage derived from being able to use either a

younger or older wine in a blend. The petitioner explained this advantage as follows:

For instance, 15% of a wine from an older riper vintage will assist in achieving a style target when the current vintage has produced thinner, more acid wines. An 85% vintage date regulation, as proposed, would lead to improved taste appeal and quality perception of many wines. Young red wines would be smoother and less "green" and would be more consistent across vintages. Older white wines would be fresher and fruitier and more consistent across vintages as well.

The petitioner concluded that "[i]n the end, consumers would benefit from the U.S. winemaker's ability to produce better quality wine at the same cost."

Notice of Proposed Rulemaking and Public Response

On July 1, 2005, TTB published in the *Federal Register* (70 FR 38058) a notice of proposed rulemaking, Notice No. 49, setting forth a proposed revision of § 4.27(a) substantively as set forth in the petition. Notice No. 49 invited comments from the public on the proposed regulatory change, and the public comment period closed on August 30, 2005.

TTB received 98 comments on Notice No. 49. A total of 37 commenters identified themselves as growers, 33 commenters identified themselves as representing wineries, and nine industry associations commented. The remaining commenters who could be identified as a particular type of commenter included two consumers, two brokers, a foreign government official, a journalist, and a retailer. Of the total comments received, 64 comments opposed the proposed change, 30 of which appeared to be form letters from growers. There were 32 comments in support of the proposal, and 2 commenters discussed issues in the rulemaking without taking a position. The submitted comments are discussed in more detail below.

Discussion of Comments Received

Import Issues

Before discussing the substantive comments received in response to the proposal set forth in Notice No. 49, TTB will address some issues about imported vintage-dated wines that were reflected in the comments.

TTB first notes that the conditions for use of a vintage date on imported wine are set forth in § 4.27(c)(1), (2), and (3). Under paragraph (c)(1), the wine must be made in compliance with § 4.27(a). Under paragraph (c)(2), the wine must be bottled in containers of 5 liters or less before importation, or bottled in the United States from the original

container showing a vintage date. Finally, under paragraph (c)(3), there must be a certificate issued in the country of origin that the wine conforms to the vintage date standards of the country of origin (if the country of origin authorizes the issuance of such a certificate).

A comment in response to Notice No. 49 from Argentina's Director for Multilateral Economic Negotiations noted that "Argentina is making use of the third option" for content of vintage wines, suggesting that Argentina views the three conditions for use of vintage dates on imported wines set forth in § 4.27(c) as separate options.

We wish to make it clear that these three conditions are to be read as connected requirements, rather than separate options. Therefore, if a standard in a foreign country is lower than the U.S. standard, the wine imported from the country must conform to the U.S. standard. TTB is not altering this longstanding position in this rulemaking proceeding.

On another point, several commenters interpreted the petition as arguing that the standards for vintage wines should be lowered because TTB is unable to enforce the current 95-percent standard applicable to both imported and domestic wines. These commenters called on TTB to better enforce the current rules with respect to imports rather than adopt a lower standard.

TTB must emphasize that this rulemaking initiative is not based on enforceability issues. The purpose of Notice No. 49 was to propose, and elicit comments on, a regulatory change to give greater flexibility to domestic industry members in blending wine to suit consumer tastes. Nonetheless, we believe it is important to point out that TTB has several tools at its disposal to enforce the current standards for imported wines. Although we do not have the same opportunity to visit producers of imported wine to verify records that we have in the case of domestic producers, we note that importers of wines are permittees and are responsible for ensuring compliance for the products they import. We also note in this regard that we have the authority under 27 CFR 4.38(h) to request substantiating information from importers about the contents of the containers to which labels are affixed. In addition, on the application for a certificate of label approval (COLA), the importer must certify, under penalties of perjury, that representations on the label "correctly represent the content of the containers to which these labels will be applied." Importers who willfully violate these requirements may be

subject to suspension or revocation of their permits or even, in appropriate cases, criminal sanctions.

TTB also investigates third-party complaints about specific labels, and we conduct field investigations and audits to verify wine label information. We also contact foreign governments to aid in our investigations of complaints regarding imported products. We therefore believe our enforcement framework is adequate to ensure the voluntary compliance of most importers and to correct instances of mislabeled wine when they are discovered.

Economic Impact on Growers

Some commenters opposed to the proposed regulatory change expressed the belief that reducing the percentage of grapes from the labeled year in a vintage wine would harm growers by allowing wineries to use more grapes "from high production, lower priced years" in vintage wines. On the other hand, a comment in support of the petition from a California winegrape growers association suggested that if the rule change lowered the price of grapes in a year with high demand, it should also moderate the "downward market pressure" in years of greater supply, and provide a "stabilizing effect in the marketplace."

TTB concludes from these comments that any overall effect our proposed rule change may have on grape prices is at best debatable and thus should not be a controlling factor in this rulemaking.

Technical or Commercial Reasons for Adopting the Proposed 85-Percent Standard

In Notice No. 49, TTB recited the technical or commercial reasons given by the petitioner for requesting amendment of § 4.27, specifically, that producers wish to make more consistent wines and that using small amounts of wines from different vintages can improve the flavor of the base wine. Many comments from wineries agreed with these reasons for amending the regulations. For example, one winery noted:

The majority of our wines are made to be popularly priced and widely available to consumers. We are proud that all of our wines are vintage-dated and labeled with an appellation of origin. * * * Allowing us to blend our wines to an 85% vintage-date standard will enable us to produce an even better and more competitive product.

Other commenters suggested that the commercial issues raised by wineries in support of the proposed rule were not relevant to a rulemaking under the FAA Act. We disagree. Our predecessor Agency, the IRS, considered similar

issues when it adopted the 95-percent standard in 1972. The issue of whether the current standard unnecessarily restricts the flexibility of winemakers in blending wines from different vintage dates is one that impacts both the industry and consumers, and it is not inappropriate to consider the impact of such a standard on winemakers as well as consumers.

Many commenters suggested that increased flexibility would allow wineries to produce a better quality vintage dated wine. As one commenter said:

The most important reason for this change is wine quality. Having participated in blending trials with many winemakers over the last 28 years, I am convinced that the ability to blend up to 15% of aged red wine into a young red wine and to blend up to 15% of a fresh, fruity white wine into an older white wine will result in wine blends with greater consumer appeal. This will benefit the consumer as well as the producer.

Other commenters supported the proposed change because they believed it would bring the United States in line with a *de facto* international standard, and thus enhance the competitiveness of U.S. wines in a global marketplace. For example, the petitioner commented that "American winemakers are at a considerable disadvantage compared to their colleagues in most of the world's major wine producing countries in being able to use only 5 percent of wine from another vintage in the blend. The outcome is that U.S. wineries are placed at a competitive disadvantage in the global market because it is more costly and challenging to make wines of consistent quality at a given price point as compared to other countries * * *". The petitioner also commented that the current vintage date regulations result in increased production costs, because of less efficient tank utilization, and argued that pursuant to the proposed change in the regulations, "better tank efficiency would lead to lower production costs for these wineries, which will support more competitive pricing."

A winery that commented in support of the proposed rule noted that increased flexibility allows wineries to respond better to crop and market changes, explaining as follows:

If there is an unusually large or small crop in a given vintage, allowing the blending of up to 15% of wines from a previous or later vintage may allow a winery to keep wine available in a normal vintage cycle. Similarly, if economic or other market conditions raise or lower the sales of a wine, the winery is better able to respond in a way that protects the quality of wine at the consumer level.

TTB concludes that the current regulations for use of a vintage date on a wine label unnecessarily restrict the flexibility of wineries, especially when compared to the vintage date standards of many other major wine-producing countries. The proposed amendment would provide greater leeway for wineries to blend relatively small quantities of wines from a different vintage into a vintage-dated wine labeled with an appellation of origin other than a country or a viticultural area. The comments support the conclusion that the revised standard would allow wineries to maintain the quality of their vintage-dated wines in response to fluctuations in grape harvests, and would generally enhance the competitiveness of U.S. wineries in a global marketplace.

Consumer Issues

We note that only two commenters identified themselves as consumers; both opposed the change to the vintage date requirements. A number of other commenters argued that lowering the percentage of grapes from the year on the label in vintage wine would be seen as a lowering of quality standards in the press, public opinion, or consumer perception, and some of these commenters called our proposal a "race to the bottom" or a "slippery slope."

The California Association of Winegrape Growers (CAWG) submitted a summary of a consumer survey, without providing the full results of the survey. The summary states that while 71 percent of consumers place value on the presence of a vintage date, only a third of the consumers surveyed knew that the vintage date was the year in which the grapes were harvested. Asked to choose from 100, 95, 85, or less than 50 percent as the percentage of a vintage wine that must be derived from grapes grown in the labeled year, 52 percent of those surveyed chose "Don't know" as the answer, 23 percent answered 100 percent, and only 11 percent of the core group correctly answered 95 percent. The summary did not state how many consumers chose 85 percent or less than 50 percent as the answer. CAWG opposed the proposed change to the vintage date rules and commented that "[d]iluting the restrictions and meaning of the vintage date will only further contribute to consumer confusion."

One commenter who expressed strong opposition to our proposal stated:

Each vintage of wine has a unique character dictated in substantial part by the growing conditions that prevailed during that specific growing year in a particular growing region. Authentic vintage character is part of what gives wine bottles true individuality. Wine

critics often advise their readers that one vintage is better or worse than another and that one vintage should be purchased more heavily or avoided.

On the other hand, a commenter who wrote in support of the proposed change stated: "With the exception of the luxury-priced wine market where a particular vintage is often celebrated for its uniqueness, nearly all other wine consumers, both domestically and abroad, have specific style and quality expectations that are consistent from purchase to purchase."

Other commenters noted that there were other ways consumers might use vintage date information. A commenter who partially supported the proposal said:

* * * consumers do not always use vintage dates to gain information about the climatic conditions that prevailed in the place where a wine was produced. In many cases, consumers use the vintage date for other reasons such as to determine whether a wine is for current drinking, too old or too young. This is particularly the case in wines that are made in a younger drinking style, where wines that are more than a year or two old will no longer be at their peak.

Another commenter similarly pointed out that consumers of moderately priced wines made with State or county appellations choose a brand first, and then "use the vintage date to ensure that they are not purchasing excessively old or unreasonably young wines based on their own preferences."

Several wine producers discussed the comparable nature of vintage, varietal, and appellation of origin claims. One commenter noted, "If a wine that is 85% derived from Napa Valley grapes taste[s] like wine from Napa Valley, and is not misleading, it stands to reason that a wine that is 85% derived from the 2002 vintage will taste like wine from 2002, and will not be misleading." Another commenter made a similar point:

Some argue that a change to baseline vintage requirements could cause consumer deception. TTB determined some time ago that varietal and appellation requirements placed at 75% allows [sic] blending flexibility for improved wines without creating consumer confusion or deception. Why then would reducing the baseline vintage requirement to the global 85% standard create consumer confusion or deception? In fact, this is a win for consumers in better quality wines and greater clarity as to the definition of vintage across international wines.

The latter comment refers to T.D. ATF-53, in which our predecessor Agency adopted the current rules for varietal and appellation of origin labeling.

After carefully reviewing the comments on this issue, we conclude

that the record does not support a conclusion that adoption of the 85-percent standard for vintage-dated wines labeled with an appellation of origin other than a viticultural area is likely to mislead consumers. The results of the consumer survey, as provided by CAWG in summary form, are incomplete, and are at best inconclusive on this issue. While those results purport to show that consumers are not aware of the current standards for use of a vintage date, they do not provide a basis for concluding that an 85-percent standard would mislead or confuse consumers. As illustrated by the other comments, vintage date information may be used by consumers in various ways. We believe the standard as proposed would continue to provide consumers with adequate information about the vintage date of the wine.

Dual Standard

Many of the commenters who opposed the proposed rule expressed concern that the dual standard, one for wines labeled with a viticultural area and the other for wines labeled with other appellations of origin such as a county or State, would confuse or mislead consumers. Two commenters who favored the 85-percent rule said it should be applied to all wine, including wine from viticultural areas. However, most of the comments supported the 95-percent standard for wines labeled with a viticultural area, in that they either supported the proposed amendment or they supported retention of the 95-percent standard for all wines.

In the original petition, and again in its comment, the petitioner pointed out that there is a precedent for holding viticultural areas to a higher standard in TTB appellation of origin regulations. Pursuant to the provisions of 27 CFR 4.25, a grape wine is entitled to a country, State, or county appellation of origin if, among other things, at least 75 percent of the wine is derived from grapes grown in the labeled appellation area. In the case of a wine labeled with a viticultural area, at least 85 percent of the wine must be derived from grapes grown within the boundaries of the viticultural area. Furthermore, one of the commenters who generally opposed the proposal stated that while "the EU standard is 85% * * * member states are free to impose higher standards. We have been advised that some member states * * * set standards for some appellations ranging from 85% to 95%."

After careful consideration of all the comments, TTB has concluded that the dual standard, as proposed, will not mislead consumers. There is nothing inherently misleading about having

different vintage date standards for wines labeled with viticultural area appellations of origin, as these wines are already subject to more stringent standards. Furthermore, there was significant support among the commenters for retaining the current 95-percent standard for wines labeled with an American viticultural area or its foreign equivalent.

We do not believe that the current record supports adoption of a flat 85-percent standard for all wines, as suggested by two commenters. Furthermore, we note that this issue was not specifically aired for comment in this rulemaking proceeding. We would, of course, consider initiating a rulemaking action in response to a future petition for adoption of such a standard.

Additional Comments

Several commenters noted that, if we adopt the 85-percent standard, winemakers could elect to use a higher percentage of grapes from the labeled vintage and make a claim to that effect in other information on their labels. In response, we note that 27 CFR 4.38(f) allows for additional information on labels, as long as it is truthful, accurate, and specific and is not misleading to the consumer. Accordingly, our practice is to consider the propriety of label usages such as this on a case-by-case basis.

One commenter suggested that if winemakers believe they can produce a better wine by blending vintages, they should do so but should tell the consumer, and another commenter suggested that we allow bottlers to show multiple vintage dates on the label. In regard to the latter comment, we note that in 1980, in response to a petition, ATF aired a proposal to allow multiple vintage dates in an advance notice of proposed rulemaking, (Notice No. 357, November 13, 1980, 45 FR 74942). Comments on that notice were evenly divided, and subsequently ATF issued a notice of proposed rulemaking setting forth specific proposals (Notice No. 378, August 5, 1981, 46 FR 39850). Because only a few comments (mainly opposed to allowing multiple vintage dates on labels) were received in response to that notice, on May 18, 1984, ATF published a Notice No. 529 withdrawing the proposal (49 FR 21083). We do not intend to reopen this issue at the present time.

In its comment, New Zealand Winegrowers, an association that represents the interests of New Zealand grape growers and wine makers, argued in favor of allowing vintage dates on the labels of wine with a country as the appellation of origin. They noted that

"New Zealand is a long and narrow land mass of around the same size as California," and added: "There are many other wine-producing countries of comparable size with USA appellations of origin that are similarly restricted." In response, because we did not solicit comments on such a change in Notice No. 49, we believe this request is beyond the scope of the current rulemaking.

Comments on Effective Date

Only one commenter discussed the effective date issue raised in the comment solicitation portion of Notice No. 49. This commenter suggested that, as a general rule, new rules not dealing with health issues or mandated effective dates should have an effective date that takes into account the time needed to use up inventories of labels.

On further consideration of this matter, we conclude that, because wine that meets the current 95-percent standard will automatically meet the new 85-percent standard, there is no need for an effective date transition period.

TTB Finding

Based on the above comment discussion and as a result of further review of this matter, TTB has decided to adopt the regulatory change as proposed in Notice No. 49 and to make some additional technical changes to the regulation in question. We believe that adopting the proposed change will allow an appropriate amount of flexibility for wineries that produce vintage wines, especially when compared to the vintage date standards of many other major wine-producing countries. We also believe that the amended standard will continue to provide consumers with adequate information about the vintage date of the wine, while maintaining the identity of the vintage dated wine.

Accordingly, in this document, TTB is adopting the proposal (1) to allow wine labeled with an appellation of origin other than a country or viticultural area to bear a vintage date if at least 85 percent of the wine is derived from grapes harvested in the labeled calendar year and (2) to retain the current requirement that at least 95 percent of the grapes in a vintage-dated wine be harvested in the year shown on the label for wine with an American viticultural area (or its foreign equivalent) as an appellation of origin.

In addition, we are revising § 4.27(c) to enhance its clarity, and we are removing from § 4.27 the outdated references to gallons. The metric standard has been in place since 1979,

so we believe the references to gallons are no longer needed.

Finally, we are issuing this final rule with a 30-day delayed effective date. As stated above, we believe a longer transition period is not necessary because wines that meet the vintage date labeling requirement under the current rules will meet the requirement under the new standard.

Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation provides greater flexibility to wine producers and importers without imposing any new reporting, recordkeeping, or other administrative requirement. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This rule is not a significant regulatory action as defined by Executive Order 12866, 58 FR 51735. Therefore, it requires no regulatory assessment.

Drafting Information

Marjorie D. Ruhf of the Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, drafted this document. However, other personnel participated in its development.

List of Subjects in 27 CFR Part 4

Advertising, Customs duties and inspection, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Trade practices, Wine.

Amendment to the Regulations

■ For the reasons discussed in the preamble, we amend 27 CFR, chapter 1, part 4, as follows:

PART 4—LABELING AND ADVERTISING OF WINE

■ 1. The authority citation for part 4 continues to read as follows:

Authority: 27 U.S.C. 205, unless otherwise noted.

■ 2. In section 4.27, paragraph (a) is revised, paragraph (b) is amended by removing the parenthetical reference “(or 1-gallon before January 1, 1979)”, and paragraph (c) is revised to read as follows:

§ 4.27 Vintage wine.

(a) *General.* Vintage wine is wine labeled with the year of harvest of the grapes and made in accordance with the standards prescribed in classes 1, 2, or

3 of § 4.21. The wine must be labeled with an appellation of origin other than a country (which does not qualify for vintage labeling). The appellation must be shown in direct conjunction with the designation required by § 4.32(a)(2), in lettering substantially as conspicuous as that designation. In no event may the quantity of wine removed from the producing winery, under labels bearing a vintage date, exceed the volume of vintage wine produced in that winery during the year indicated by the vintage date. The following additional rules apply to vintage labeling:

(1) If an American or imported wine is labeled with a viticultural area appellation of origin (or its foreign equivalent), at least 95 percent of the wine must have been derived from grapes harvested in the labeled calendar year; or

(2) If an American or imported wine is labeled with an appellation of origin other than a country or viticultural area (or its foreign equivalent), at least 85 percent of the wine must have been derived from grapes harvested in the labeled calendar year.

* * * * *

(c) *Imported wine.* Imported wine may bear a vintage date if all of the following conditions are met:

(1) It is made in compliance with the provisions of paragraph (a) of this section;

(2) It is bottled in containers of 5 liters or less prior to importation, or it is bottled in the United States from the original container of the product (showing a vintage date); and

(3) The invoice is accompanied by, or the American bottler possesses, a certificate issued by a duly authorized official of the country of origin (if the country of origin authorizes the issuance of such certificates) certifying that the wine is of the vintage shown, that the laws of the country regulate the appearance of vintage dates upon the labels of wine produced for consumption within the country of origin, that the wine has been produced in conformity with those laws, and that the wine would be entitled to bear the vintage date if it had been sold within the country of origin.

Signed: March 29, 2006.

John J. Manfreda,
Administrator.

Approved: April 7, 2006.

Timothy E. Skud,
Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Parts 19 and 40

[Re: T.D. TTB-44]

RIN 1513-AA80

Administrative Changes to Alcohol, Tobacco and Firearms Regulations Due to the Homeland Security Act of 2002; Correction

AGENCY: Alcohol and Tobacco Tax and Trade Bureau (TTB), Treasury.

ACTION: Final rule; correction.

SUMMARY: On April 4, 2006, TTB published a final rule in the **Federal Register** making administrative changes to its regulations due to the Homeland Security Act of 2002, which divided the former Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, into two separate agencies, the Bureau of Alcohol, Tobacco, Firearms and Explosives in the Department of Justice, and the Alcohol and Tobacco Tax and Trade Bureau in the Department of the Treasury. That final rule contained two incorrect amendatory instructions; this document corrects those errors.

DATES: *Effective Date:* March 31, 2005.

FOR FURTHER INFORMATION CONTACT: Michael Hoover, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, telephone 202-927-8076.

SUPPLEMENTARY INFORMATION: Effective January 24, 2003, section 1111 of the Homeland Security Act of 2002 divided the former Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury, into two separate agencies, the Bureau of Alcohol, Tobacco, Firearms and Explosives in the Department of Justice, and the Alcohol and Tobacco Tax and Trade Bureau in the Department of the Treasury. On January 24, 2003, the two Departments published a joint final rule in the **Federal Register** (68 FR 3744) that divided the ATF regulations contained in title 27, Code of Federal Regulations, between the two new agencies. That final rule placed the regulations administered by the Bureau of Alcohol, Tobacco, Firearms and Explosives in a newly created 27 CFR chapter II, while the regulations administered by the Alcohol and Tobacco Tax and Trade Bureau (TTB) remained in 27 CFR chapter I.

On April 4, 2006, TTB published a final rule in the **Federal Register** making administrative changes to the majority of its regulations in 27 CFR