

2009 TTB Expo Presentation

# Beverage Distilled Spirits Plants How to Calculate Taxes and Submit Claims

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# Overview

- SOT Requirements
- When the tax attaches to the Distilled Spirits
- 5010 Tax Credits
- Semi-Monthly Returns, Quarterly Returns, and Prepayment Returns

# Overview (Continued)

- How to complete a Return Form
- Adjustments (Increasing and Decreasing)
- Timely Filing of Returns
- Notice of Proposed Assessments (Penalty and Interest)
- How to file Distilled Spirits Claims

# SOT Requirements

- As of July 1, 2008, DSPs are no longer required to pay SOT
- However, the requirement to register is still in effect; TTB deems a DSP registered when the application for registration (TTB F 5110.41) is filed
- Amended SOT registrations are not required if the qualification files are kept up to date
- Any outstanding returns and payments due before the repeal of SOT must still be filed

# Excise Taxes

- Liability attaches to distilled spirits the moment they come into existence.
- Standard tax rate prescribed by 26 U.S.C. 5001 is \$13.50 per proof gallon (wine gallons x proof (divided by 100) = proof gallons)
- 5010 Tax Credits (Effective Tax Rates) adjusts standard tax rate

# 5010 Tax Credits

# 5010 Tax Credits

- Provided for in 26 U.S.C. 5010
- A credit to the standard rate for those parts of a distilled spirits product that contain eligible wines or eligible alcoholic flavorings
- 27 CFR 19.34 prescribes the method for calculating the credit

Quarterly Returns,  
Semi-Monthly Returns, and Prepayment  
Returns



# Returns

- Any newly qualified DSP that has a withdrawal bond shall begin filing returns once a permit is issued (27 CFR 19.522)
- A return shall be filed even though no tax may be owed for the period

# Quarterly Returns

- Excise taxes are required to be filed on TTB F 5000.24
- You may be eligible to file quarterly returns if:
  - You expect to be liable for not more than \$50,000 in distilled spirits excise taxes in a calendar year
  - You were not liable for more than \$50,000 in distilled spirits excise taxes in the preceding year
  - You have withdrawal coverage on your bond to cover the entire quarter (defers your tax payments)
  - Quarterly return periods are: Jan – March, April – June, July – Sept, and Oct – Dec

27 CFR 19.522(a)(2)(iii)

# Semi-Monthly Returns (Continued)

- You must file semi-monthly returns if:
  - Your anticipated taxable removals for the calendar year exceed \$50,000 threshold of a quarterly filer
  - Your withdrawal bond is in an amount sufficient to cover removals during any two consecutive semi-monthly return periods
  - A semi-monthly return period is the 1<sup>st</sup> – 15<sup>th</sup> of the month and the 16<sup>th</sup> to the last day of month with the exception of September which has three return periods (27 CFR 19.523(c))

# Prepayments Returns

- If a withdrawal bond, which allows for deferred payment of tax, is not in place or is in an insufficient amount, distilled spirits taxes must be prepaid
- Prepayment returns are filed on TTB F 5000.24
- Prepayment returns must be filed and the tax paid on or before the date the spirits are removed from bond
- Semi-monthly returns must be filed summarizing the prepaid removals

27 CFR 19.522(c)

# Excise Tax Return

## TTB F 5000.24

# Excise Tax Return

## TTB F 5000.24

Starts at 01 each year  
i.e. 09-01 (first return)

Check if it's Check, Money Order or EFT

OMB N 13-0083 (04/30/2009)

Check if  
Prepayment  
period

<b>DEPARTMENT OF THE TREASURY</b> ALCOHOL AND TOBACCO TAX AND TRADE BUREAU (TTB) <b>EXCISE TAX RETURN</b> <i>(Prepare in duplicate – See instructions below)</i>		1. SERIAL NUMBER <hr/>	
2. FORM OF PAYMENT <input type="checkbox"/> CHECK <input type="checkbox"/> MONEY ORDER <input type="checkbox"/> EFT <input type="checkbox"/> OTHER (Specify) _____		3. AMOUNT OF PAYMENT \$ <span style="font-size: 1.2em;">                    </span> <b>Amt of Tax payment</b>	
4. RETURN COVERS (Check one) <input type="checkbox"/> PREPAYMENT <input type="checkbox"/> PERIOD		NOTE: PLEASE MAKE CHECKS OR MONEY ORDERS PAYABLE TO THE ALCOHOL AND TOBACCO TAX AND TRADE BUREAU (SHOW EMPLOYER IDENTIFICATION NUMBER ON ALL CHECKS OR MONEY ORDERS). IF YOU SEND A CHECK, SEE PAPER CHECK CONVERSION NOTICE BELOW.	
5. DATE PRODUCTS TO BE REMOVED (For Prepayment Returns Only) BEGINNING <span style="font-size: 1.2em;">                    </span> <b>1/1/09</b> ENDING <span style="font-size: 1.2em;">                    </span> <b>1/15/09</b>		<b>FOR TTB USE ONLY</b>	
6. EMPLOYER IDENTIFICATION NUMBER	7. PLANT, REGISTRY, OR PERMIT NUMBER	TAX	\$
<b>EIN</b>	<b>DSP #</b>	PENALTY	
8. NAME AND ADDRESS OF TAXPAYER (Include ZIP Code) <b>Name &amp; Address</b>		INTEREST	
		TOTAL	\$
		EXAMINED BY:	
		DATE EXAMINED:	

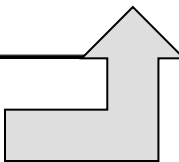
\*\*Line 5 is where you will put the date for a prepayment – date of withdrawal

# Excise Tax Return

## TTB F 5000.24 (Continued)

CALCULATION OF TAX DUE <i>(Before making entries on lines 18 – 21, complete Schedules A and B)</i>	
PRODUCT <i>(a)</i>	AMOUNT OF TAX <i>(b)</i>
9. DISTILLED SPIRITS	\$PG X \$13.50 (effective Tax Rate)
10. WINE	
11. BEER	
12. CIGARS	
13. CIGARETTES	
14. CIGARETTE PAPERS AND/OR CIGARETTE TUBES	
15. CHEWING TOBACCO AND/OR SNUFF	
16. PIPE TOBACCO AND/OR ROLL-YOUR-OWN TOBACCO	
17. TOTAL TAX LIABILITY <i>(Total of lines 9-16)</i>	\$ Line 9 – 16 Total
18. ADJUSTMENTS INCREASING AMOUNT DUE <i>(From line 29)</i>	Increasing Adjustments
19. GROSS AMOUNT DUE <i>(Line 17 plus line 18)</i>	\$ Line 17 plus Line 18
20. ADJUSTMENTS DECREASING AMOUNT DUE <i>(From line 34)</i>	(decreasing adjustments)
21. AMOUNT TO BE PAID WITH THIS RETURN <i>(Line 19 minus line 20)</i>	\$ Amt to be paid
Under penalties of perjury, I declare that I have examined this return <i>(including any accompanying explanations, statements, schedules, and forms)</i> and to the best of my knowledge and belief it is true, correct, and includes all transactions and tax liabilities required by law or regulations to be reported.	
22. DATE	23. SIGNATURE
	24. TITLE
	TITLE

Signed by person with  
Signing authority on file with NRC



# Increasing and Decreasing Adjustments



# Increasing Adjustments TTB F 5000.24

SCHEDULE A - ADJUSTMENTS INCREASING AMOUNT DUE			
EXPLANATION OF INDIVIDUAL ERRORS OR TRANSACTIONS (a)	AMOUNT OF ADJUSTMENTS		
	(b) TAX	(c) INTEREST	(d) PENALTY
25.	\$		\$
26.			
27.			
28. SUBTOTALS OF COLUMNS (b), (c), and (d)	\$	\$	\$
29. TOTAL ADJUSTMENTS INCREASING AMOUNT DUE (Line 28, Col (b) + (c) + (d)) Enter here and on line 18.			\$

Completed for such things as: taxable removals from a prior period that were not paid when due; inventory shortages; tax on export shipments where proof of exportation is not obtained; and for payment of a Notice of Proposed Assessment. List the reason in Column A, Tax in Column B, Interest in Column C and Penalty in Column D

# Decreasing Adjustment TTB F 5000.24

## SCHEDULE B - ADJUSTMENTS DECREASING AMOUNT DUE

EXPLANATION OF INDIVIDUAL ERRORS OR TRANSACTIONS (a)	AMOUNT OF ADJUSTMENTS	
	(b) TAX	(c) INTEREST
30.	\$	\$
31.		
32.		
33. SUBTOTALS OF COLUMNS (b) and (c)	\$	\$
34. TOTAL ADJUSTMENTS DECREASING AMOUNT DUE (Line 33, Col (b) + (c)) Enter here and on line 20.		\$

Completed for decreasing adjustments such as: claims for credit of tax (for example claim for spirits returned to bond); overstated removals from prior tax return periods; wine and flavor credits (5010 credit). Column A show the reason or applicable claim number, Column B show the tax and Column C show the interest.

# Timely Filing of Return

# Timely Filing of Semi-Monthly Returns

## Alcohol & Tobacco Due Dates for Semi-monthly Tax Returns for Revenue Producing Plants Calendar Year 2009

Serial Number	Return Period	Due Date
1	January 1-15, 2009	January 29, 2009
2	January 16-31	February 13
3	February 1-15	February 27

- Semi-monthly returns are normally due no later than the 14<sup>th</sup> day after the last day of the return period. Except for the September periods the 16<sup>th</sup>-26<sup>th</sup> shall be filed no later than Sept. 29<sup>th</sup>. The period 27<sup>th</sup>-30<sup>th</sup> shall be filed no later than October 14<sup>th</sup>.
- Special rules for September can be found at 27 CFR 19.523.

# Timely Filing of Quarterly Return

<b>Serial Number</b>	<b>Return Period</b>	<b>Due Date</b>
1	January 1 – March 31, 2009	April 14, 2009
2	April 1 – June 30, 2009	July 14, 2009
3	July 1 – September 30, 2009	October 14, 2009
4	October 1 – December 31, 2009	January 14, 2010

- Quarterly returns are due to be paid 14 days after the last day of the Quarterly period.
- See 27 CFR 19.523(d) for due date exceptions.

# Pay.Gov Information

- Returns and payments submitted via pay.gov:
  - Are due no later than 4:00 p.m. EST  
1 business day prior to due date
  - Late filed returns and payments will be subject to penalties and interest

# Notice of Proposed Assessments (NPAs)

# NPA's

- 26 U.S.C. 6201 – “the Secretary is authorized and required to make assessments of all taxes” (including interest and assessable penalties)
- Assessment is a formal recording of a taxpayer’s tax liability



# NPAs (Continued)

- 26 U.S.C. Sections 6651 and 6656, the following penalties may be imposed if a return and/or payment is late:
  - Failure to File
  - Failure to Pay
  - Failure to Deposit (when required to make payment by EFT)

# Distilled Spirits Claims

# Distilled Spirits Claims

- There are several types of claims which can be filed by the proprietor of a distilled spirits plant
- Claims are filed on TTB F 5620.8 (except export drawback)
- All claims must be submitted to the NRC
- Claims must be signed by someone with signing authority; all signatures must be original signatures

# Types of Claims

- Return to Bond
- Remission of Tax
- Abatement of Tax
- Refund or Credit of Tax
- Export Drawback
- Disaster Claims

# TTB F 5620.8

OMB NO. 1513-0030 (09/30/2008)

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU (TTB)

**CLAIM - ALCOHOL, TOBACCO, AND FIREARMS TAXES**

*(File in duplicate with the Alcohol and Tobacco Tax and Trade Bureau)*

FOR TTB USE ONLY

CLAIM NUMBER

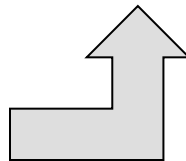
Assigned by TTB

1. THIS CLAIM IS FILED UNDER THE PROVISIONS OF 27 CFR *(Enter applicable section of regulations, such as 53, 40.283, or 40.173. See www.ttb.gov.)*

## Regulation relating to type of claim

2.  REMISSION OF TAX       ALLOWANCE OF CREDIT FOR TAX       ABATEMENT OF TAX  
 ALLOWANCE OF LOSS       ALLOWANCE OF TAX       REFUND OF TAX  
 DRAWBACK-MNBP       DRAWBACK-EXPORT       OTHER (Specify) \_\_\_\_\_

Type of Claim being filed



# TTB F 5620.8 (Continued)

3. NAME AND ADDRESS OF CLAIMANT *(Telephone number and e-mail address optional)*

Name & Address

4. EMPLOYER IDENTIFICATION NUMBER  
**EIN**

5. PLANT, LICENSE, OR PERMIT NUMBER  
**DSP Registry #**

6. KIND OF TAX  
**Distilled Spirits Excise**

7. PERIOD, IF SPECIAL TAX OR MNBP ONLY *(mm/dd/yy)*  
FROM TO

8. AMOUNT OF TAX CLAIMED  
**Amt of Tax Claimed**

9. DATE(S) OF PAYMENT *(for refunds ONLY)*

## TTB F 5620.8 (Continued)

10. BASIS OF CLAIM *(Give the detailed information required by the applicable regulations under which the claim is filed and any other facts which will tell the reviewing official of the exact basis for the claim. Please identify any documents or statements submitted in support of this claim.)*

Enter explanation or statements to support the particular claim being filed.

# TTB F 5620.8 (Continued)

## PAPERWORK REDUCTION ACT NOTICE

This request is in accordance with the Paperwork Reduction Act of 1995. The information collection is used, along with other supporting documents, to obtain credit, remission, and allowance of tax on taxable articles (alcohol, beer, tobacco products, and firearms and ammunition) that have been lost, and to obtain refund of overpaid taxes and abatement of overassessed taxes. This information is required to obtain a benefit by 26 U.S.C. 5008, 5705, and 6416.

The estimated average burden associated with this collection of information is 1 hour per respondent or recordkeeper, depending on individual circumstances. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be addressed to the Reports Management Officer, Regulations and Ruling Division, Alcohol and Tobacco Tax and Trade Bureau, Washington, DC 20220.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a current, valid OMB control number.

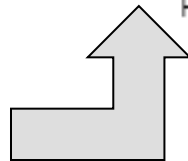
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Under the penalties of perjury, I declare that I have submitted this claim, including supporting documents and statements, and to the best of my knowledge and belief, it is true, correct, and complete.

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11. SIGNATURE (Type or print name and title under or beside signature)

12. DATE



Signed by someone with signing authority on file with TTB.



# Return to Bond Claim

- Taxpaid spirits may be returned to bonded premises of any distilled spirits plant
- Claim must be filed within 6 months of date of the return by the proprietor of the plant to which the spirits are returned
- Claim must address all items listed in 27 CFR 19.42

27 CFR 19.681

# Return to Bond Claim

- Taxpaid spirits may only be returned to bond for:
  - Destruction (no product remains)
  - Denaturation (made unfit for beverage use)
  - Redistillation (run through distilling equipment again)
  - Reconditioning (dumped then filtered, clarified, stabilized, or reformulation)
  - Rebottling (dumped then bottled or packaged)

# Remission of Claim

- Asks for relief from the liability of tax on spirits lost or destroyed in bond
- Proprietor must establish that the loss or destruction was not due to negligence, collusion, or fraud by any related parties in the transaction
- Taxes become due on these spirits unless a claim for remission of tax is filed and approved

# Remission of Claim

- Examples:
  - Too much product is pumped into storage tank; excess spills onto the floor and down the drain before an employee can shut off the pump
  - Spirits are being transferred in bond and the truck is involved in an accident; spirits spill all over the roadway and are lost

# Abatement of Tax Claim

- File to abate or reverse tax liability assessed against proprietor of a distilled spirits plant
- This claim would be filed if TTB had entered a tax assessment and the proprietor of the DSP believes the assessment has been entered in error
- The proprietor must show proof why the assessment is in error

# Refund or Credit Claim

- Filed when the proprietor of a DSP believes an overpayment of tax has been submitted to TTB
- Any DSP who submits Excise Tax Returns and pays excise tax may file a claim for credit rather than for refund:
  - The DSP will show the approved claim amount as a decreasing adjustment under Schedule B of the Return TTB F 5000.24

# Export Drawback

- This claim is filed on TTB F 5110.30 when tax-paid spirits are removed from bond for export
- Exporter of the spirits completes the “Notice” portion of the drawback form
- Claim must be filed by the person who bottled or packaged the spirits
- TTB must have proof of exportation before drawback can be allowed

# Disaster Claims

- IRC allows for certain disaster claims to be filed by industry member who holds taxpaid product for sale at the time a disaster strikes
- 26 U.S.C. 5064(a) allows for payment without interest on the amount equal to the taxes paid on distilled spirits lost, rendered unmarketable, or condemned by a duly authorized official by reason of:
  - Fire, flood, casualty, or other disaster
  - Breakage, destruction, or other damage (excluding theft) resulting from vandalism or malicious mischief



## Disaster Claims (Continued)

- A disaster claim must be filed within 6 months after the date on which the disaster or loss occurred
- Claims must prove you were not indemnified by insurance or otherwise in respect of the tax

## Other Help with Forms

- Tutorials for completing tax returns and claims are available at [www.ttb.gov](http://www.ttb.gov)
- Select “Tutorials and Job Aids” located at the left side of our homepage and follow the prompts
- You may also call the NRC at 513-684-3335 for assistance

# Summary

- Tax Attachment
- 5010 Credits
- Quarterly, Semi-Monthly, and Prepayment Returns
- Completing Excise Tax Return TTB F 5000.24
- Increasing and Decreasing Adjustments
- What Constitutes a Timely Return
- Notice of Proposed Assessments (NPAs)
- Various Types of Claims that a DSP may file

# Contact Information

- National Revenue Center  
Spirits Tax Unit:
  - **Phone:** (513) 684-3335
  - **Mail:** National Revenue Center  
550 Federal Office Building, Rm 8002  
Cincinnati, OH 45202