

Business Administration for comment on its impact on small business.

### Drafting Information

The principal author of these temporary regulations is Stephen Tackney of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and Treasury Department participated in their development.

### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

### Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

#### PART 1—INCOME TAXES

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

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

■ 2. Section 1.83-7 is amended by adding paragraph (d) to read as follows:

#### § 1.83-7 Taxation of nonqualified stock options.

\* \* \* \* \*

(d) *Effective dates.* This section applies for periods before July 2, 2003. For periods on or after July 2, 2003, *see* § 1.83-7T.

■ 3. Section 1.83-7T is added to read as follows:

#### § 1.83-7T Taxation of nonqualified stock options (Temporary).

(a) *In general.* If there is granted to an employee or independent contractor (or beneficiary thereof) in connection with the performance of services, an option to which section 421 (relating generally to certain qualified and other options) does not apply, section 83(a) shall apply to such grant if the option has a readily ascertainable fair market value (determined in accordance with paragraph (b) of this section) at the time the option is granted. The person who performed such services realizes compensation upon such grant at the time and in the amount determined under section 83(a). If section 83(a) does not apply to the grant of such an option because the option does not have a readily ascertainable fair market value at the time of grant, sections 83(a) and 83(b) shall apply at the time the option is exercised or otherwise disposed of, even though the fair market value of such option may have become readily ascertainable before such time. If the option is exercised, sections 83(a) and 83(b) apply to the transfer of property

pursuant to such exercise, and the employee or independent contractor realizes compensation upon such transfer at the time and in the amount determined under section 83(a) or 83(b). If the option is sold or otherwise disposed of in an arm's length transaction, sections 83(a) and 83(b) apply to the transfer of money or other property received in the same manner as sections 83(a) and 83(b) would have applied to the transfer of property pursuant to an exercise of the option. The preceding sentence does not apply to a sale or other disposition of the option to a person related to the service provider that occurs on or after July 2, 2003. For this purpose, a person is related to the service provider if—

(1) The person and the service provider bear a relationship to each other that is specified in section 267(b) or 707(b)(1), subject to the modifications that the language "20 percent" is used instead of "50 percent" each place it appears in sections 267(b) and 707(b)(1), and section 267(c)(4) is applied as if the family of an individual includes the spouse of any member of the family; or

(2) The person and the service provider are engaged in trades or businesses under common control (within the meaning of section 52(a) and (b)); provided that a person is not related to the service provider if the person is the service recipient with respect to the option or the grantor of the option.

(b) and (c) For further guidance, *see* § 1.83-7(b) and (c).

(d) *Effective dates.* This section applies on or after July 2, 2003. For dates before July 2, 2003 *see* § 1.83-7.

**Robert E. Wenzel,**

*Deputy Commissioner of Internal Revenue.*

Approved: June 26, 2003.

**Pamela F. Olson,**

*Assistant Secretary of the Treasury.*

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## DEPARTMENT OF THE TREASURY

### Alcohol and Tobacco Tax and Trade Bureau

#### 27 CFR Part 4

[TTB T.D.—2; Ref. Notice No. ATF-953]

RIN 1512-AC63

### Amelioration of Fruit and Agricultural Wines; Technical Amendments (2001R-197P)

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

**ACTION:** Treasury decision, final rule.

**SUMMARY:** The Treasury Department and its Alcohol and Tobacco Tax and Trade Bureau are correcting an error in the wine labeling regulations regarding the amelioration of fruit (non-grape) and agricultural wines. The Bureau is also making a number of technical corrections to the wine labeling regulations.

**EFFECTIVE DATE:** Effective September 2, 2003.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Berry, Alcohol and Tobacco Tax and Trade Bureau, Regulations and Procedures Division, PO Box 18152, Roanoke, Virginia 24014; telephone (540) 344-9333.

#### SUPPLEMENTARY INFORMATION:

#### Impact of the Homeland Security Act on Rulemaking

Effective January 24, 2003, the Homeland Security Act of 2002 divided the Bureau of Alcohol, Tobacco and Firearms (ATF) into two new agencies, the Alcohol and Tobacco Tax and Trade Bureau (TTB) in the Department of the Treasury and the Bureau of Alcohol, Tobacco, Firearms and Explosives in the Department of Justice. Regulation of wine labeling is the responsibility of the new TTB. References to ATF in this document relate to events that occurred prior to January 24, 2003, or to functions that the Bureau of Alcohol, Tobacco, Firearms and Explosives continues to perform.

#### Background

The Alcohol and Tobacco Tax and Trade Bureau administers regulations published in chapter I of title 27 CFR. In a recent review of part 4 of this chapter, Labeling and Advertising of Wine, we noted an error at § 4.22(b)(5) regarding the amelioration of fruit (non-grape) and agricultural wines. We are correcting this error and making several other technical amendments to the wine labeling regulations in part 4.

#### Amelioration Error

The regulations at § 4.22(b)(5) state that fruit (non-grape) and agricultural wines may be treated with sugar or water in excess of the quantities prescribed for their standards of identity without TTB viewing such treatment as an alteration of class and type, if, among other conditions, "the content of natural acid is not less than 7.5 parts per thousand." [Italics added.] This limitation of 7.5 parts per thousand is incorrect. Pursuant to 26 U.S.C. 5383 and 5384, the correct minimum acid level should be 7.69 parts per thousand.

This level is correctly stated in § 24.178(b)(3) as 7.69 grams per liter. "Grams per liter" is equivalent to "parts per thousand." In order to make these regulations accurate and consistent, we are amending the minimum acid limitation in § 4.22(b)(5) to 7.69 grams per liter.

#### Technical Amendments

We have identified a typographical error at § 4.21(h)(2), the standard of identity for imitation and substandard or other than standard wine. The phrase "other than standard wine" has been omitted from this section. The corrected regulation will read as follows:

(2) "Substandard wine" or "other than standard wine" shall bear as a part of its designation the words "substandard" or "other than standard," \* \* \*. [Addition in italics.]

We have also identified two technical errors at § 4.30(a). Both the first and second sentences of this section use the word "article" to refer to regulatory subparts. "Article" was the term used for subparts when the wine labeling regulations were written in 1935. Later revisions replaced "article" with "subpart," but these two instances were overlooked. We are correcting this oversight.

We are also removing three obsolete sections from part 4. All three have been replaced with newer sections, and their requirements have been obsolete for years.

- § 4.25, Appellation of origin, obsolete since January 1, 1983, has been replaced with § 4.25a.
- § 4.35, Name and address, obsolete since July 28, 1994, has been replaced with § 4.35a.
- § 4.72, Standards of fill, obsolete since January 1, 1979, has been replaced with § 4.73.

We are assigning the old numbers to the newer sections to improve the organization of part 4. We believe that removing these obsolete sections will make it much easier for readers to find current requirements.

#### Notice No. 953

ATF published Notice No. 953 on October 3, 2002, proposing to make the corrections and technical amendments described above. No comments were received. Accordingly, we are now finalizing the proposed amendments.

#### Regulatory Analyses and Notices

##### *Does the Paperwork Reduction Act Apply to This Final Rule?*

We propose no requirement to collect information. Therefore, the provisions of the Paperwork Reduction Act of 1995,

44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply.

##### *How Does the Regulatory Flexibility Act Apply to This Final Rule?*

We certify that this regulation will not have a significant economic impact on a substantial number of small entities. We expect no negative impact on small entities. We are not imposing any new requirements. Accordingly, the Regulatory Flexibility Act does not require a regulatory flexibility analysis.

##### *Is This a Significant Regulatory Action as Defined by Executive Order 12866?*

This is not a significant regulatory action as defined by Executive Order 12866. Therefore, the order does not require a regulatory assessment.

#### Drafting Information

The principal author of this document is Jennifer Berry, Regulations and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau.

#### 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.

#### Authority and Issuance

- For the reasons discussed in the preamble, we are amending 27 CFR part 4 as follows:

#### PART 4—LABELING AND ADVERTISING OF WINE

- 1. The authority citation for 27 CFR part 4 continues to read as follows:

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

- 2. Amend § 4.21 by revising paragraph (h)(2) introductory text to read as follows:

##### § 4.21 The standards of identity.

\* \* \* \* \*

(h) \* \* \*

(2) "Substandard wine" or "other than standard wine" shall bear as a part of its designation the words "substandard" or "other than standard," and shall include:

\* \* \* \* \*

- 3. Revise § 4.22(b)(5) to read as follows:

##### § 4.22 Blends, cellar treatment, alteration of class or type.

\* \* \* \* \*

(b) \* \* \*

(5) Treatment of any class or type of wine for which a standard of identity is prescribed in this subpart with sugar or

water in excess of the quantities specifically authorized by such standards:

*Provided, That* the class or type thereof shall not be deemed to be altered:

(i) Where such wine (other than grape wine) is derived from fruit or other agricultural products having a high normal acidity, if the total solids content is not more than 22 grams per 100 cubic centimeters and the content of natural acid is not less than 7.69 grams per liter, and

(ii) Where such wine is derived exclusively from fruit or other agricultural products the normal acidity of which is 20 parts or more per thousand, if the volume of the resulting product has been increased not more than 60 percent by the addition of sugar and water solution for the sole purpose of correcting natural deficiencies due to such acidity and (except in the case of such wine when produced from fruit or berries other than grapes) there is stated as part of the class and type designation the phrase "Made with over 35 percent sugar solution."

\* \* \* \* \*

- 4. Remove § 4.25.
- 5. Redesignate § 4.25a as § 4.25.
- 6. Amend § 4.30(a) by removing the word "article" where it appears and replacing it with the word "subpart".
- 7. Remove § 4.35.
- 8. Redesignate § 4.35a as § 4.35.
- 9. Remove § 4.72.
- 10. Redesignate § 4.73 as § 4.72.

Signed: March 26, 2003.

**John J. Manfreda,**

*Acting Administrator.*

Approved: June 4, 2003.

**Timothy E. Skud,**

*Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD09-03-230]

RIN 1625-AA00

#### Safety Zone; Lake Huron, Harbor Beach, MI

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for