

EXEMPTIONS

§251.74 Exemption from requirements pertaining to marks, bottles, and labels.

The provisions of this part relating to the labeling of containers as prescribed by 27 CFR part 5 are not applicable to imported distilled spirits (a) not for sale or for any other commercial purpose whatever; (b) on which no internal revenue tax is required to be paid or determined on or before withdrawal from customs custody; (c) for use as ship stores; or (d) for personal use. Samples of distilled spirits, other than those provided for in §§251.49 and 251.75, imported for any purpose are not exempt from the requirements pertaining to marks, bottles, and labels. Samples of wine and beer brought into the United States pursuant to §251.49 are exempt from the requirements pertaining to marks, bottles, and labels. Samples of wine and beer brought into the United States pursuant to §251.49 are exempt from the labeling requirements of 27 CFR parts 4 and 7, respectively. Exemptions from the requirements that imported distilled spirits, wines, and beer be marked to indicate the country of origin are set forth in customs regulations (19 CFR part 11).

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended, 1374, as amended (26 U.S.C. 5205, 5301))

[T.D. ATF-206, 50 FR 23956, June 7, 1985]

§251.75 Samples of distilled spirits, wine, and beer for quality control purposes.

Samples of distilled spirits, wine, and beer in containers of a capacity of not more than 1.75 liters, imported solely for quality control purposes (laboratory testing and analysis) and not for sale or for use in the manufacture or production of any article for sale, shall be exempt from any requirements relating to marks, bottles, labels, and standards of fill. Samples imported for quality control purposes shall not be exempt from the payment of any internal revenue tax imposed on, or by reason of, importation.

[T.D. ATF-198, 50 FR 8557, Mar. 1, 1985, as amended by T.D. ATF-206, 50 FR 23955, June 7, 1985]

WINE AND FLAVORS CONTENT OF
DISTILLED SPIRITS**§251.76 Approval and certification of wine and flavors content.**

(a) Any person who, after December 1, 1990, imports into the United States distilled spirits on which the tax is to be paid or determined at an effective tax rate based in whole, or in part, on the alcohol content derived from eligible wine or eligible flavors which have not been previously approved on ATF Form 5530.5 (1678) shall, before the first tax determination at that rate, request and receive a statement of eligibility for each wine or flavor to be used in the computation of the effective tax rate.

(b) To receive a statement of eligibility, the importer shall cause to be submitted to the ATF National Laboratory, 1401 Research Boulevard, Attn: NBA, Rockville, MD 20850, the following:

(1) An 8-ounce sample of each distilled spirits, wine and flavor contained in the product; and

(2) A statement of composition listing—

(i) For wine, the kind (class and type) and percentage of alcohol by volume; and

(ii) For flavors, the name and percentage of alcohol by volume, and the name and quantity of each ingredient used in the manufacture of the flavor.

(c) Each time distilled spirits containing eligible wine or eligible flavors are imported into the United States, the importer shall prepare a certificate of effective tax rate computation showing the following:

(1) Name, address, and permit number of the importer;

(2) Kind (class and type) of product;

(3) Elements necessary to compute the effective tax rate in accordance with §251.40a as follows—

(i) Proof gallons of distilled spirits (exclusive of distilled spirits derived from eligible flavors);

(ii) Wine gallons of each eligible wine and the percentage of alcohol by volume of each; and

(iii) Proof gallons of distilled spirits derived from eligible flavors;

(4) After December 1, 1990, the date of the statement of eligibility of each eligible wine and of each eligible flavor;

(5) Effective tax rate applied to the product; and

(6) Signature of the importer or other duly authorized person under the following declaration:

I declare under the penalties of perjury that this certificate of effective tax rate computation has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete.

(d) The importer shall file the certificate of effective tax rate computation with the district director of customs at the port of entry, at the time of entry summary, or, for distilled spirits to be withdrawn from customs custody under the provisions of subpart L of this part, furnish a copy to the proprietor of the distilled spirits plant to which the distilled spirits are transferred.

(Approved by the Office of Management and Budget under control number 1512-0352)

(Sec. 6, Pub. L. 96-598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

[T.D. ATF-297, 55 FR 18070, Apr. 30, 1990]

§ 251.77 Standard effective tax rate.

(a) In lieu of preparing a certificate of effective tax rate computation each time distilled spirits containing eligible wine or eligible flavors are imported as prescribed in § 251.76(c), an importer may have a standard effective tax rate established based on the least quantity and the lowest alcohol content of eligible wine or eligible flavors used in the manufacture of the product.

(b) To have a standard effective tax rate established, the importer shall cause to be submitted to the ATF National Laboratory, 1401 Research Boulevard, Rockville, MD 20850, the following:

(1) The samples prescribed in § 251.76(b)(1) and an 8-ounce sample of the finished product;

(2) The statement of composition prescribed in § 251.76(b)(2);

(3) A statement of composition for the finished product listing the—

(i) Name of the product;

(ii) Quantity, alcohol content (percentage of alcohol by volume), and the kind (class and type) of each eligible wine or the name of each eligible flavor

used in the manufacture of the product; and

(iii) Standard effective tax rate for the product computed in accordance with § 251.40a.

(c) Where a standard effective tax rate has been previously approved for a product, an importer, in lieu of having a standard effective tax rate established, may use that rate. An importer desiring to use a previously approved standard effective tax rate shall obtain a copy of the approval from the person to whom it was issued and, over the signature of the importer or other duly authorized person, place the following declaration:

I declare under the penalties of perjury that this approval has been examined by me and, to best of my knowledge and belief, the standard effective tax rate established for this product is applicable to all like products contained in this shipment.

(d) A standard effective tax rate may not be employed until approved by the ATF National Laboratory. The importer shall file or furnish a copy of the standard effective tax rate approval in the manner prescribed in § 251.76(d). The use of a standard effective tax rate shall not relieve an importer from the payment of any tax found to be due. The Director may at any time require an importer to immediately discontinue the use of a standard effective tax rate.

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[T.D. ATF-297, 55 FR 18070, Apr. 30, 1990; 55 FR 23635, June 11, 1990]

Subparts F-G [Reserved]

Subpart H—Importation of Distilled Spirits In Bulk

§ 251.120 Persons authorized to receive distilled spirits imported in bulk.

Distilled spirits imported in bulk (i.e., in containers having a capacity in excess of 1 gallon (3.785 liters)) may be entered into a class 8 customs bonded warehouse for bottling, or may be withdrawn from customs custody only if entered for exportation or if withdrawn by a person to whom it is lawful to sell or otherwise dispose of distilled