

knowledge of the loss. The regional director (compliance) may require such further evidence as he deems necessary.

(68A Stat. 749, 72 Stat. 1323; 26 U.S.C. 6065, 5008)

**§ 252.304 Action on claim.**

The regional director (compliance) will allow or disallow claims filed under § 252.303 in accordance with existing law and regulations. If the regional director (compliance) finds that there has been a diversion or theft of the distilled spirits as the result of any connivance, collusion, fraud, or negligence on the part of the exporter, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them, the tax on the distilled spirits diverted or lost by theft will be assessed, or liability asserted against the bond covering the shipment, as the case may be.

(68A Stat. 867, 72 Stat. 1323; 26 U.S.C. 7302, 5008)

SPECIALLY DENATURED SPIRITS

**§ 252.310 Loss of specially denatured spirits in transit.**

Losses of specially denatured spirits withdrawn free of tax under this part during transportation from the bonded premises of the distilled spirits plant from which withdrawn to (a) the port of export, or (b) the foreign-trade zone, as the case may be, may be allowed if evidence satisfactory to the regional director (compliance) establishes that such specially denatured spirits have not been unlawfully diverted, or lost by theft as the result of any connivance, collusion, fraud, or negligence on the part of the exporter, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them. The giving of notice to the exporter, filing claims for allowance of loss, and action on the claims shall be, insofar as applicable, in accordance with the procedure prescribed in §§ 252.302 through 252.304.

WINE

**§ 252.315 Loss of wine in transit.**

The tax on wine withdrawn without payment of tax under this part and which is lost during transportation

from the bonded wine cellar from which withdrawn to (a) the port of export, (b) the vessel or aircraft, (c) the foreign-trade zone, (d) the manufacturing bonded warehouse, or (e) the customs bonded warehouse, as the case may be, may be remitted if evidence satisfactory to the regional director (compliance) establishes that such wine has not been unlawfully diverted, or lost by theft with connivance, collusion, fraud, or negligence on the part of the exporter, owner, consignor, consignee, bailee, or carrier or the employees or agents of any of them. However, the remission of tax on wine withdrawn without payment of tax under this part and which is lost while in transit may be allowed only to the extent that the claimant is not indemnified or recompensed for such tax.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1381, 1382 (26 U.S.C. 5370, 5371))

[T.D. ATF-88, 46 FR 39816, Aug. 5, 1981]

**§ 252.316 Notice to exporter.**

If, on examination of the ATF Form 5100.11 received from the officer required to certify the same under the provisions of subpart N, the regional director (compliance) is of the opinion that wine reported lost had been unlawfully diverted, or had been lost by theft, he will advise the exporter by letter:

- (a) Of the identity of the containers;
- (b) Of the amount of the loss;
- (c) Of the circumstances indicating diversion or theft;
- (d) That allowance of the loss will be subject to filing (1) proof that such loss is allowable under the provisions of 26 U.S.C. 5370, and (2) claim for remission of the tax on the wine so lost; and
- (e) That action in respect of the loss will be withheld for a period of not more than 30 days to afford an opportunity to file such proof and claim.

In any case in which wines are lost during transportation, as described in § 252.315, whether by theft or otherwise, the regional director (compliance) may require the exporter to file a claim for relief in accordance with § 252.317. Where circumstances may warrant, extensions of additional time for submission of the proof and claim may be