

**SUMMARY:** This document contains corrections to final regulations that were published in the **Federal Register** on Wednesday, January 10, 2001 (66 FR 1837), relating to section 125 cafeteria plans.

**DATES:** This correction is effective January 10, 2001.

**FOR FURTHER INFORMATION CONTACT:** Christine L. Keller (202) 622-6080 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The final regulations that are the subject of these corrections are under section 125 of the Internal Revenue Code.

**Need for Correction**

As published, final regulations (TD 8921) contain errors that may prove to be misleading and are in need of clarification.

**Correction of Publication**

Accordingly, the publication of the final regulations (TD 8921), which were the subject of FR Doc. 01-258, is corrected as follows:

1. On page 1838, column 1, in the preamble under the paragraph heading *1. Changes in the March 2000 Final Regulations*, line 3 of the first paragraph, the language “final regulations issued earlier this year” is corrected to read “final regulations issued in March 2000”.

2. On page 1838, column 3, under the paragraph heading *2. Changes From the March 2000 Proposed Regulations*, line 4, the language “earlier this year, but include various” is corrected to read “in March 2000, but include various”.

3. On page 1840, column 1, amendatory instruction Par. 2. is corrected by adding a new instruction “3a.” following item 3 to read as follows:

3a. Revising paragraph (c)(3)(ii).

**§ 1.125-4 [Corrected]**

4. On page 1840, column 2, § 1.125-4 is corrected by removing the 5 asterisks following paragraph (c)(1)(ii).

5. On page 1840, column 2, § 1.125-4 is corrected by removing the 5 asterisks following paragraph (c)(3)(i) and adding the text of revised paragraph (c)(3)(ii) in their place to read as follows:

**§ 1.125-4 Permitted election changes.**

\* \* \* \* \*

(c) \* \* \*  
(3) \* \* \*

(ii) *Application to other qualified benefits.* An election change satisfies the

requirements of this paragraph (c)(3) with respect to other qualified benefits if the election change is on account of and corresponds with a change in status that affects eligibility for coverage under an employer’s plan. An election change also satisfies the requirements of this paragraph (c)(3) if the election change is on account of and corresponds with a change in status that effects expenses described in section 129 (including employment-related expenses as defined in section 21(b)(2)) with respect to dependent care assistance, or expenses described in section 137 (including qualified adoption expenses as defined in section 137(d)) with respect to adoption assistance.

\* \* \* \* \*

6. On page 1841, column 3, § 1.125-4(f)(5)(ii), line 4, the language “Service, or a tribal organization” is corrected to read “Service, or a tribal organization;”.

**Cynthia E. Grigsby,**

*Chief, Regulations Unit, Office of Special Counsel (Modernization and Strategic Planning).*

[FR Doc. 01-4923 Filed 3-1-01; 8:45 am]

**BILLING CODE 4830-01-P**

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Parts 53 and 301**

**[TD 8920]**

**RIN 1545-AY64**

**Excise Taxes on Excess Benefit Transactions; Correction**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to temporary regulations.

**SUMMARY:** This document contains corrections to temporary regulations that were published in the **Federal Register** on January 10, 2001 (66 FR 2144). This document relates to the excise taxes on excess benefit transactions under section 4958 of the Internal Revenue Code.

**DATES:** This correction is effective January 10, 2001.

**FOR FURTHER INFORMATION CONTACT:** Phyllis D. Haney (202) 622-4290 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

These temporary regulations that are the subject of this correction are under section 4958 of the Internal Revenue Code.

**Need for Correction**

As published, these temporary regulations (TD 8920) contain errors that may prove to be misleading and are in need of clarification.

**Correction of Publication**

Accordingly, the publication of the temporary regulations (TD 8920), which were the subject of FR Doc. 01-256, is corrected as follows:

**§ 53.4958-4T [Corrected]**

1. On page 2164, column 3, § 53.4958-4T, paragraph (a)(3)(vii), *Example 1*, line 12, the language “T (see § 53.4958-3T(a)). Under the initial” is corrected to read “T (see § 53.4958-3T(c)(3)). Under the initial”.

2. On page 2165, column 1, § 53.4958-4T, paragraph (a)(3)(vii), *Example 6*, line 19, the language “respect to B, Company X also becomes a” is corrected to read “respect to Hospital B, Company X also becomes a”.

3. On page 2165, column 1, § 53.4958-4T, paragraph (a)(3)(vii), *Example 6*, line 20, the language “disqualified person with respect to B (see” is corrected to read “disqualified person with respect to Hospital B (see”.

4. On page 2167, column 2, § 53.4958-4T, paragraph (c)(3)(i)(B), last line in the paragraph, the language “paragraph (b)(3)(i)(A) of this section.” is corrected to read “paragraph (c)(3)(i)(A) of this section.”.

**§ 53.4958-6T [Corrected]**

5. On page 2168, column 1, § 53.4958-6T, paragraph (a)(1), first line in the column, the language “the organization with the meaning of” is corrected to read “the organization within the meaning of”.

6. On page 2169, column 1, § 53.4958-6T, paragraph (c)(2)(iv), *Example 2*, line 1, the language “*Example 2*. The facts are the same as” is corrected to read “*Example 2*. The facts are the same as in”.

7. On page 2169, column 1, § 53.4958-6T, paragraph (c)(2)(iv), *Example 4*, line 1, the language “*Example 4*. The facts are the same as” is corrected to read “*Example 4*. The facts are the same as in”.

**§ 301.7611-1 [Corrected]**

8. On page 2171, column 3, § 301.7611-1, under the undesignated centerheading “Application to Section 4958”, A-19, line 1, the language “A-19: See § 53.4958-7(b) of this” is

corrected to read "A-19: See § 53.4958-8T(b) of this".

**Cynthia E. Grigsby,**

*Chief, Regulations Unit, Office of Special Counsel (Modernization and Strategic Planning).*

[FR Doc. 01-5006 Filed 3-1-01; 8:45 am]

BILLING CODE 4830-01-P

## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco and Firearms

#### 27 CFR Part 22

[T.D. ATF-443; Ref: Notice No. 828]

RIN 1512-AB57

#### Distribution and Use of Tax-Free Alcohol (2000R-294P)

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

**ACTION:** Final rule (Treasury decision).

**SUMMARY:** This final rule amends the regulations in 27 CFR part 22 by eliminating the requirement for users of tax-free alcohol to file a bond. It also liberalizes certain qualification requirements relating to tax-free alcohol user permits. ATF believes that these revisions will greatly reduce and simplify the qualification process for tax-free alcohol permits.

**DATES:** This rule is effective on May 1, 2001.

**FOR FURTHER INFORMATION CONTACT:** Lisa M. Gesser, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, (202-927-9347) or e-mail at [alctob@atfhq.atf.treas.gov](mailto:alctob@atfhq.atf.treas.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

There are certain registration requirements under the law and its implementing regulations that must be met prior to the issuance of a permit to withdraw and use tax-free alcohol. Once such registration requirements are met, the applicant is issued a tax-free alcohol users permit and may commence conducting any of the uses authorized under the law and regulations for tax-free alcohol permittees. The permittee is allowed to purchase and acquire alcohol from a registered distilled spirits plant (DSP) free of the excise tax payments normally required to be made by the DSP proprietor.

Authorized users of tax-free alcohol include any State or political subdivision of a State, or the District of

Columbia acquiring the alcohol for nonbeverage purposes. Tax-free alcohol may also be used by any educational organization (exempt from income tax), scientific university or college of learning, laboratory for use exclusively in scientific research, hospital, blood bank, sanitarium, pathological laboratory exclusively engaged in making analyses, or tests, for hospitals or sanitariums, or clinic operated for charity and not for profit.

##### Notice of Proposed Rulemaking

On June 13, 1996, ATF published a notice of proposed rulemaking (Notice No. 828, 61 FR 30019) to solicit public comment on proposed regulations that would eliminate the bonding requirements for tax-free alcohol users. ATF also proposed to revise the qualification requirements for obtaining a permit to withdraw and use tax-free alcohol. The public was invited to submit written comments on this notice for a period of 60 (sixty) days ending August 12, 1996.

##### Comments on the NPRM

In response to Notice 828, ATF received two written comments. Comments were received from: the Distilled Spirits Council of the United States (DISCUS), and the Surety Association of America.

##### Bonds and Consents of Surety

As discussed in Notice No. 828, 26 U.S.C. 5272 provides that bond coverage may be required as part of the tax-free alcohol permit qualification process. Prior to 1985, the regulations in 27 CFR part 22 required that every applicant, with certain exceptions, obtain a bond prior to issuance of a permit. Then, in 1985, the tax-free regulations were revised and the exemption from bond coverage was expanded. See T.D. ATF-199 (50 FR 9152). Under the revisions adopted in 1985, the percentage of users of tax-free alcohol who were exempt from filing a surety bond increased from 36 percent to 75 percent.

Based on the post-1985 experience in administering part 22, ATF concluded that bond coverage should no longer be required of any applicant for a tax-free alcohol permit. ATF believed that elimination of the bond requirement in part 22 would result in substantially reduced administrative and financial burdens on the tax-free alcohol permittees. Accordingly, in Notice No. 828, ATF proposed to eliminate the requirement to obtain a bond.

In response to this proposal, DISCUS submitted a comment stating that they support all efforts by ATF to eliminate unnecessary regulation and to reduce

the administrative burdens imposed upon industry.

The Surety Association of America commented against this proposal. They stated that "the ATF is overlooking the importance of the bond requirement in preventing losses. The bond provision may be one of the primary reasons why the experience has been favorable, and without it, we believe the ATF runs the risk of losing tax revenue without a means of recapture."

While ATF agrees that bond requirements for tax-free alcohol users may have reduced the risk of tax revenue losses at some time in the past, our experience since 1985 indicates that tax-free alcohol users pose a minimal risk to the revenue. Further, the elimination of the bond requirement does not leave the ATF "without a means of recapture." Any permittee who uses tax-free alcohol in a manner that violates the laws and regulations is still directly liable for the tax as provided in 26 U.S.C. 5001(a)(4).

In summary, ATF has concluded that the bond requirement in 27 CFR part 22 is unnecessary to protect the revenue and the proposal to eliminate the bond requirement for tax-free alcohol users has been adopted in this final rule.

##### Qualification Requirements

Section 5271 of the Internal Revenue Code of 1986 requires the submission of an application before a permit may be issued to procure or use tax-free alcohol. Regulations have required the submission of a detailed application with supporting data by all applicants. The appropriate ATF officer is authorized to waive some of the detailed data for applicants who are a State, political subdivisions thereof, or the District of Columbia or whose annual withdrawal and usage of tax-free alcohol will not exceed 1,500 proof gallons.

In Notice No. 828, ATF proposed that this waiver should be available to all applicants when the appropriate ATF officer concludes that the revenue is adequately protected with respect to the person submitting the application.

In response to this proposal, the DISCUS submitted a comment that expressed their support. No one commented in opposition to this proposal. Accordingly, the proposal has been adopted in this final rule.

##### Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. The regulations will give ATF specific regulatory authority to relax and remove certain registration requirements. A