

**1513-0113**

**26 U.S.C.**

**§ 5276. Occupational tax**

(a) General rule

Except as otherwise provided in this section, a permit issued under section 5271 shall not be valid with respect to acts conducted at any place unless the person holding such permit pays a special tax of \$250 with respect to such place.

(b) Certain occupational tax rules to apply

Rules similar to the rules of subpart G of part II of subchapter A shall apply for purposes of this section.

(c) Exception for United States

Subsection (a) shall not apply to any permit issued to an agency or instrumentality of the United States.

(d) Exception for certain educational institutions

Subsection (a) shall not apply with respect to any scientific university, college of learning, or institution of scientific research which -

(1) is issued a permit under section 5271, and

(2) with respect to any calendar year during which such permit is in effect, procures less than 25 gallons of distilled spirits free of tax for experimental or research use but not for consumption (other than organoleptic tests) or sale.

1513-0113

**27 CFR**

**Sec. 40.31 Liability for special tax.**

Source: T.D. ATF-271, 53 FR 17560, May 17, 1988, unless otherwise noted.

(a) Manufacturer of tobacco products. Every manufacturer of tobacco products shall pay a special (occupational) tax at a rate specified by Sec. 40.32 of the part. The tax shall be paid on or before the date of commencing the business of manufacturing tobacco products, and thereafter every year on or before July 1. On commencing business, the tax shall be computed from the first day of the month in which liability is incurred, through the following June 30. Thereafter, the tax shall be computed for the entire year (July 1 through June 30).

(b) Transition rule. For purposes of paragraph (a) of this section, a proprietor engaged in the business of manufacturing tobacco products on January 1, 1988, shall be treated as having commenced business on that date. The special tax imposed by this transition rule shall cover the period January 1, 1988, through June 30, 1988, and shall be paid on or before April 1, 1988.

(c) Each place of business taxable. A manufacturer of tobacco products incurs special tax liability at each place of business in which an occupation subject to special tax is conducted. A place of business means the entire office, plant or area of the business in any one location under the same proprietorship. Passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises are not sufficient separation to require additional special tax, if the divisions of the premises are otherwise contiguous.

(26 U.S.C. 5143, 5731)

**Sec. 40.32 Rates of special tax.**

(a) General. Title 26 U.S.C. 5731(a)(1) imposes a special tax of \$1,000 per year on every manufacturer of tobacco products.

(b) Reduced rate for small proprietors. Title 26 U.S.C. 5731(b) provides for a reduced rate of \$500 per year with respect to any manufacturer of tobacco products whose gross receipts (for the most recent taxable year ending before the first day of the taxable period to which the special tax imposed by Sec. 40.31 relates) are less than \$500,000. The ``taxable year'' to be used for determining gross receipts is the taxpayer's income tax year. All gross receipts of the taxpayer shall be included, not just the gross receipts of the business subject to special tax. Proprietors of new businesses that have not yet begun a taxable year, as well as proprietors of existing businesses that have not yet ended a taxable year, who commence a new activity subject to special tax, qualify for the reduced special (occupational) tax rate, unless the business is a member of a ``controlled group''; in that case, the rules of paragraph (c) of this section shall apply.

(c) Controlled group. All persons treated as one taxpayer under 26 U.S.C. 5061(e)(3) shall be treated as one taxpayer for the purpose of determining gross receipts under paragraph (b) of this section. ``Controlled group'' means a controlled group of corporations, as

1513-0113

defined in 26 U.S.C. 1563 and implementing regulations in 26 CFR 1.1563-1 through 1.1563-4, except that the words ``at least 80 percent'' shall be replaced by the words ``more than 50 percent'' in each place they appear in subsection (a) of 26 U.S.C. 1563, as well as in the implementing regulations. Also, the rules for a ``controlled group of corporations'' apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50% control over a group consisting of corporations and one, or more, partnerships and/or sole proprietorships, all of the members of the controlled group are one taxpayer for the purpose of this section.

(d) Short taxable year. Gross receipts for any taxable year of less than 12 months shall be annualized by multiplying the gross receipts for the short period by 12 and dividing the result by the number of months in the short period as required by 26 U.S.C. 448(c)(3).

(e) Returns and allowances. Gross receipts for any taxable year shall be reduced by returns and allowances made during such year under 26 U.S.C. 448(c)(3).

(26 U.S.C. 448, 5061, 5731)

### **Sec. 40.33 Special tax returns.**

(a) General. Special tax shall be paid by return. The prescribed return is TTB Form 5630.5, Special Tax Registration and Return. Special tax returns, with payment of tax, shall be filed with TTB in accordance with instructions on the form.

(b) Preparation of TTB Form 5630.5. All of the information called for on Form 5630.5 shall be provided, including:

(1) The true name of the taxpayer.

(2) The trade name(s) (if any) of the business(es) subject to special tax.

(3) The employer identification number (see Sec. 40.34).

(4) The exact location of the place of business, by name and number of building or street, or if these do not exist, by some description in addition to the post office address. In the case of one return for two or more locations, the address to be shown shall be the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer).

(5) The class(es) of special tax to which the taxpayer is subject.

(6) Ownership and control information: that is, the name, position, and residence address of every owner of the business and of every person having power to control its management and policies with respect to the activity subject to special tax. ``Owner of the business'' shall include every partner, if the taxpayer is a partnership, and every person owning 10% or more of its stock, if the taxpayer is a corporation. However, the ownership and control information required by this paragraph need not be stated if the same information has been previously provided to TTB in connection with a permit application, and if the information previously provided is still current.

(c) Multiple locations and/or classes of tax. A taxpayer subject to special tax for the same period at more than one location or for more than one class of tax shall--

(1) File one special tax return, TTB Form 5630.5, with payment of tax, to cover all such locations and classes of tax; and

(2) Prepare, in duplicate, a list identified with the taxpayer's

1513-0113

name, address (as shown on TTB Form 5630.5), employer identification number, and period covered by the return. The list shall show, by States, the name, address, and tax class of each location for which special tax is being paid. The original of the list shall be filed with TTB in accordance with instructions on the return, and the copy shall be retained at the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer) for the period specified in Sec. 40.185.

(d) Signing of TTB Forms 5630.5--(1) Ordinary returns. The return of an individual proprietor shall be signed by the individual. The return of a partnership shall be signed by a general partner. The return of a corporation shall be signed by any officer. In each case, the person signing the return shall designate his or her capacity as "individual owner," "member of firm," or, in the case of a corporation, the title of the officer.

(2) Fiduciaries. Receivers, trustees, assignees, executors, administrators, and other legal representatives who continue the business of a bankrupt, insolvent, deceased person, etc., shall indicate the fiduciary capacity in which they act.

(3) Agent or attorney in fact. If a return is signed by an agent or attorney in fact, the signature shall be preceded by the name of the principal and followed by the title of the agent or attorney in fact. A return signed by a person as agent will not be accepted unless there is filed, with the TTB office with which the return is required to be filed, a power of attorney authorizing the agent to perform the act.

(4) Perjury statement. TTB Forms 5630.5 shall contain or be verified by a written declaration that the return has been executed under the penalties of perjury.

(26 U.S.C. 5142, 6061, 6065, 6151, 7011)

#### **Sec. 40.34 Employer identification number.**

(a) Requirement. The employer identification number (defined in 26 CFR 301.7701-12) of the taxpayer who has been assigned such a number shall be shown on each special tax return, including amended returns, filed under this subpart. Failure of the taxpayer to include the employer identification number may result in the imposition of the penalty specified in Sec. 70.113 of this chapter.

(b) Application for employer identification number. Each taxpayer who files a special tax return, who has not already been assigned an employer identification number, shall file IRS Form SS-4 to apply for one. The taxpayer shall apply for and be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file a special tax return. The employer identification number shall be applied for no later than 7 days after the filing of the taxpayer's first special tax return. IRS Form SS-4 may be obtained from the director of an IRS service center or from any IRS district director.

(c) Preparation and filing of IRS Form SS-4. The taxpayer shall prepare and file IRS Form SS-4, together with any supplementary statement, in accordance with the instructions on the form or issued in respect to it.

(26 U.S.C. 6109)

1513-0113

[T.D. ATF-271, 53 FR 17560, May 17, 1988, as amended by T.D. ATF-301, 55 FR 47658, Nov. 14, 1990]

**Sec. 40.35 Issuance, distribution, and examination of special tax stamps.**

(a) Issuance of special tax stamps. Upon filing a properly executed return on TTB Form 5630.5 together with the full remittance, the taxpayer will be issued an appropriately designated special tax stamp. If the return covers multiple locations, the taxpayer will be issued one appropriately designated stamp for each location listed on the attachment required by Sec. 40.33(c)(2), but showing, as to name and address, only the name of the taxpayer and the address of the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer).

(b) Distribution of special tax stamps for multiple locations. On receipt of the special tax stamps, the taxpayer shall verify that there is one stamp for each location listed on the attachment to TTB Form 5630.5. The taxpayer shall designate one stamp for each location and type on each stamp the address of the business conducted at the location for which that stamp is designated. The taxpayer shall then forward each stamp to the place of business designated on the stamp.

(c) Examination of special tax stamps. All stamps denoting payment of special tax shall be kept available for inspection by appropriate TTB officers, at the location for which designated, during business hours.

(26 U.S.C. 5146, 6806)

**Sec. 40.36 Changes in special tax stamps.**

(a) Change in name. If there is a change in the corporate or firm name, or in the trade name, as shown on TTB Form 5630.5, the manufacturer shall file an amended special tax return as soon as practicable after the change, covering the new corporate or firm name, or trade names. No new special tax is required to be paid. The manufacturer shall attach the special tax stamp for endorsement of the change in name.

(b) Change in proprietorship--(1) General. If there is a change in the proprietorship of a tobacco factory, the successor shall pay a new special tax and obtain the required special tax stamps.

(2) Exemption for certain successors. Persons having the right of succession provided for in paragraph (c) of this section may carry on the business for the remainder of the period for which the special tax was paid, without paying a new special tax, if within 30 days after the date on which the successor begins to carry on the business, the successor files a special tax return on Form 5630.5 with TTB, which shows the basis of succession. A person who is a successor to a business for which special tax has been paid and who fails to register the succession is liable for special tax computed from the first day of the calendar month in which he or she began to carry on the business.

(c) Persons having right of succession. Under the conditions indicated in paragraph (b)(2) of this section, the right of succession will pass to certain persons in the following cases:

1513-0113

(1) Death. The widowed spouse or child, or executor, administrator, or other legal representative of the taxpayer;

(2) Succession of spouse. A husband or wife succeeding to the business of his or her spouse (living);

(3) Insolvency. A receiver or trustee in bankruptcy, or an assignee for benefit of creditors;

(4) Withdrawal from firm. The partner or partners remaining after death or withdrawal of a member.

(d) Change in location. If there is a change in location of a taxable place of business, the manufacturer shall, within 30 days after the change, file with TTB an amended special tax return covering the new location. The manufacturer shall attach the special tax stamp or stamps, for endorsement of the change in location. No new special tax is required to be paid. However, if the manufacturer does not file the amended return within 30 days, the manufacturer is required to pay a new special tax and obtain a new special tax stamp.

(26 U.S.C. 5143, 7011)

**Sec. 40.371 Liability for special tax.**

(a) Manufacturer of cigarette papers and tubes. Every manufacturer of cigarette papers and tubes shall pay a special (occupational) tax at a rate specified by Sec. 40.372 of this part. The tax shall be paid on or before July 1. On commencing business, the tax shall be computed from the first day of the month in which liability is incurred, through the following June 30. Thereafter, the tax shall be computed for the entire year (July 1 through June 30).

(b) Each place of business taxable. A manufacturer of cigarette papers and tubes incurs special tax liability at each place of business in which an occupation subject to special tax is conducted. A place of business means the entire office, plant or area of the business in any one location under the same proprietorship. Passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises are not sufficient separation to require additional special tax, if the divisions of the premises are otherwise contiguous.

(26 U.S.C. 5143, 5731)

**Sec. 40.372 Rate of special tax.**

(a) General. Title 26 U.S.C. 5731(a)(2) imposes a special tax of \$1,000 per year on every manufacturer of cigarette papers and tubes.

(b) Reduced rate for small proprietors. Title 26 U.S.C. 5731(b) provides for a reduced rate of \$500 per year with respect to any manufacturer of cigarette papers and tubes whose gross receipts (for the most recent taxable year ending before the first day of the taxable period to which the special tax imposed by Sec. 40.371 relates) are less than \$500,000. The "taxable year" to be used for determining gross receipts is the taxpayer's income tax year. All gross receipts of the taxpayer shall be included, not just the gross receipts of the business subject to special tax. Proprietors of new businesses that have not yet begun a taxable year, as well as proprietors of existing businesses that have not yet ended a taxable year, who commence a new

1513-0113

activity subject to special tax, qualify for the reduced special (occupational) tax rate, unless the business is a member of a ``controlled group''; in that case the rules of paragraph (c) of this section shall apply.

(c) Controlled group. All persons treated as one taxpayer under 26 U.S.C. 5061(e)(3) shall be treated as one taxpayer for the purpose of determining gross receipts under paragraph (b) of this section. ``Controlled group'' means a controlled group of corporations, as defined in 26 U.S.C. 1563 and implementing regulations in 26 CFR 1.1563-1 through 1.1563-4. Also, the rules for a ``controlled group of corporations'' apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50% control over a group consisting of corporations and one, or more, partnerships and/or sole proprietorships, all of the members of the controlled group are one taxpayer for the purpose of this section.

(d) Short taxable year. Gross receipts for any taxable year of less than 12 months shall be annualized by multiplying the gross receipts for the short period by 12 and dividing the result by the number of months in the short period as required by 26 U.S.C. 448(c)(3).

(e) Returns and allowances. Gross receipts for any taxable year shall be reduced by returns and allowances made during such year under 26 U.S.C. 448(c)(3).

(26 U.S.C. 448, 5061, 5731)

#### **Sec. 40.373 Special tax returns.**

(a) General. Special tax shall be paid by return. The prescribed return is TTB Form 5630.5, Special Tax Registration and Return. Special tax returns, with payment of tax, shall be filed with TTB in accordance with instructions on the form.

(b) Preparation of TTB Form 5630.5. All of the information called for on TTB Form 5630.5 shall be provided including:

(1) The true name of the taxpayer.

(2) The trade name(s) (if any) of the business(es) subject to special tax.

(3) The employer identification number (see Sec. Sec. 40.359-361).

(4) The exact location of the place of business, by name and number of building or street, or if these do not exist, by some description in addition to the post office address. In the case of one return for two or more locations, the address to be shown shall be the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer).

(5) The class(es) of special tax to which the taxpayer is subject.

(6) Ownership and control information: That is, the name, position, and residence address of every owner of the business and of every person having power to control its management and policies with respect to the activity subject to special tax. ``Owner of the business'' shall include every partner, if the taxpayer is a partnership, and every person owning 10% or more of its stock, if the taxpayer is a corporation. However, the ownership and control information required by this paragraph need not be stated if the same information has been previously provided to TTB in connection with a permit application, and if the information previously provided is still current.

(c) Multiple locations and/or classes of tax. A taxpayer subject to

1513-0113

special tax for the same period at more than one location or for more than one class of tax shall--

(1) File one special tax return, TTB Form 5630.5, with payment of tax, to cover all such locations and classes of tax; and

(2) Prepare, in duplicate, a list identified with the taxpayer's name, address (as shown on TTB Form 5630.5), employer identification number, and period covered by the return. The list shall show, by State, the name, address, and tax class of each location for which special tax is being paid. The original of the list shall be filed with TTB in accordance with instructions on the return, and the copy shall be retained at the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer) for the period specified in Sec. 40.371.

(d) Signing of TTB Forms 5630.5--(1) Ordinary returns. The return of an individual proprietor shall be signed by the individual. The return of a partnership shall be signed by a general partner. The return of a corporation shall be signed by any officer. In each case, the person signing the return shall designate his or her capacity as "individual owner," "member of firm," or, in the case of a corporation, the title of the officer.

(2) Fiduciaries. Receivers, trustees, assignees, executors, administrators, and other legal representatives who continue the business of a bankrupt, insolvent, deceased person, etc., shall indicate the fiduciary capacity in which they act.

(3) Agent or attorney in fact. If a return is signed by an agent or attorney in fact, the signature shall be preceded by the name of the principal and followed by the title of the agent or attorney in fact. A return signed by a person as agent will not be accepted unless there is filed, with the TTB office with which the return is required to be filed, a power of attorney authorizing the agent to perform the act.

(4) Perjury statement. TTB Forms 5630.5 shall contain or be verified by a written declaration that the return has been executed under the penalties of perjury.

**Sec. 40.374 Issuance, distribution, and examination of special tax stamps.**

(a) Issuance of special tax stamps. Upon filing a properly executed return on TTB Form 5630.5 together with the full remittance, the taxpayer will be issued an appropriately designated special tax stamp. If the return covers multiple locations, the taxpayer will be issued one appropriately designated stamp for each location listed on the attachment required by Sec. 40.373(c)(2), but showing, as to name and address, only the name of the taxpayer and the address of the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer).

(b) Distribution of special tax stamps for multiple locations. On receipt of the special tax stamps, the taxpayer shall verify that there is one stamp for each location listed on the attachment to TTB Form 5630.5. The taxpayer shall designate one stamp for each location and type on each stamp the address of the business conducted at the location for which that stamp is designated. The taxpayer shall then forward each stamp to the place of business designated on the stamp.



1513-0113

(c) Examination of special tax stamps. All stamps denoting payment of special tax shall be kept available for inspection by the appropriate TTB officers, at the location for which designated, during business hours.

(26 U.S.C. 5142, 5146, 6806)

**Sec. 40.375 Changes in special tax stamps.**

(a) Change in name. If there is a change in the corporate or firm name, or in the trade name, as shown on TTB Form 5630.5, the manufacturer shall file an amended special tax return as soon as practicable after the change, covering the new corporate or firm name, or trade names. No new special tax is required to be paid. The manufacturer shall attach the special tax stamp for endorsement of the change in name.

(b) Change in proprietorship--(1) General. If there is a change in the proprietorship of a cigarette papers and tubes factory, the successor shall pay a new special tax and obtain the required special tax stamps.

(2) Exemption for certain successors. Persons having the right of succession provided for in paragraph (c) of this section may carry on the business for the remainder of the period for which the special tax was paid, without paying a new special tax, if within 30 days after the date on which the successor begins to carry on the business, the successor files a special tax return on TTB Form 5630.5 with TTB, which shows the basis of succession. A person who is a successor to a business for which special tax has been paid and who fails to register the succession is liable for special tax computed from the first day of the calendar month in which the successor began to carry on the business.

(c) Persons having right of succession. Under the conditions indicated in paragraph (b)(2) of this section, the right of succession will pass to certain persons in the following cases:

(1) Death. The spouse or child, or executor, administrator, or other legal representative of the taxpayer;

(2) Succession of spouse. A husband or wife succeeding to the business of his or her spouse (living);

(3) Insolvency. A receiver or trustee in bankruptcy, or an assignee for benefit of creditors;

(4) Withdrawal from firm. The partner or partners remaining after death or withdrawal of a member.

(d) Change in location. If there is a change in location of a taxable place of business, the manufacturer shall within 30 days after the change, file with TTB an amended special tax return covering the new location. The manufacturer shall attach the special tax stamp or stamps for endorsement of the change in location. No new special tax is required to be paid. However, if the manufacturer does not file the amended return within 30 days, the manufacturer is required to pay a new special tax and obtain a new special tax stamp.

(26 U.S.C. 5143, 7011)

1513-0113

**Sec. 44.31 Liability for special tax.**

Source: T.D. ATF-271, 53 FR 17563, May 17, 1988, unless otherwise noted.

(a) Export warehouse proprietor. Every export warehouse proprietor shall pay a special (occupational) tax at a rate specified by Sec. 44.32. The tax shall be paid on or before the date of commencing the business of an export warehouseman, and thereafter every year on or before July 1. On commencing business, the tax shall be computed from the first day of the month in which liability is incurred, through the following June 30. Thereafter, the tax shall be computed for the entire year (July 1 through June 30).

(b) Transition rule. For purposes of paragraph (a) of this section, a proprietor engaged in the business of an export warehouseman on January 1, 1988, shall be treated as having commenced business on that date. The special tax imposed by this transition rule shall cover the period January 1, 1988, through June 30, 1988, and shall be paid on or before April 1, 1988.

(c) Each place of business taxable. An export warehouse proprietor under this part incurs special tax liability at each place of business in which an occupation subject to special tax is conducted. A place of business means the entire office, plant or area of the business in any one location under the same proprietorship. Passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises are not sufficient separation to require additional special tax, if the divisions of the premises are otherwise contiguous.

(26 U.S.C. 5143, 5731)

**Sec. 44.32 Rate of special tax.**

(a) General. Title 26 U.S.C. 5731(a)(3) imposes a special tax of \$1,000 per year on every export warehouse proprietor.

(b) Reduced rate for small proprietors. Title 26 U.S.C. 5731(b) provides for a reduced rate of \$500 per year with respect to any export warehouse proprietor whose gross receipts (for the most recent taxable year ending before the first day of the taxable period to which the special tax imposed by Sec. 44.31 relates) are less than \$500,000. The ``taxable year'' to be used for determining gross receipts is the taxpayer's income tax year. All gross receipts of the taxpayer shall be included, not just the gross receipts of the business subject to special tax. Proprietors of new businesses that have not yet begun a taxable year, as well as proprietors of existing businesses that have not yet ended a taxable year, who commence a new activity subject to special tax, qualify for the reduced special (occupational) tax rate, unless the business is a member of a ``controlled group''; in that case, the rules of paragraph (c) of this section shall apply.

(c) Controlled group. All persons treated as one taxpayer under 26 U.S.C. 5061(e)(3) shall be treated as one taxpayer for the purpose of determining gross receipts under paragraph (b) of this section. ``Controlled group'' means a controlled group of corporations, as defined in 26 U.S.C. 1563 and implementing regulations in 26 CFR 1.1563-1 through 1.1563-4, except that the words ``at least 80 percent'' shall be replaced by the words ``more than 50 percent'' in each place they

1513-0113

appear in subsection (a) of 26 U.S.C. 1563, as well as in the implementing regulations. Also, the rules for a ``controlled group of corporations'' apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50% control over a group consisting of corporations and one, or more, partnerships and/or sole proprietorships, all of the members of the controlled group are one taxpayer for the purpose of this section.

(d) Short taxable year. Gross receipts for any taxable year of less than 12 months shall be annualized by multiplying the gross receipts for the short period by 12 and dividing the result by the number of months in the short period as required by 26 U.S.C. 448(c)(3).

(e) Returns and allowances. Gross receipts for any taxable year shall be reduced by returns and allowances made during such year under 26 U.S.C. 448(c)(3).

(26 U.S.C. 448, 5061, 5731)

### **Sec. 44.33 Special tax returns.**

(a) General. Special tax shall be paid by return. The prescribed return is TTB Form 5630.5, Special Tax Registration and Return. Special tax returns, with payment of tax, shall be filed with TTB in accordance with instructions on the form.

(b) Preparation of TTB Form 5630.5. All of the information called for on Form 5630.5 shall be provided, including:

(1) The true name of the taxpayer.

(2) The trade name(s) (if any) of the business(es) subject to special tax.

(3) The employer identification number (see Sec. 44.34).

(4) The exact location of the place of business, by name and number of building or street, or if these do not exist, by some description in addition to the post office address. In the case of one return for two or more locations, the address to be shown shall be the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer).

(5) The class(es) of special tax to which the taxpayer is subject.

(6) Ownership and control information: that is, the name, position, and residence address of every owner of the business and of every person having power to control its management and policies with respect to the activity subject to special tax. ``Owner of the business'' shall include every partner, if the taxpayer is a partnership, and every person owning 10% or more of its stock, if the taxpayer is a corporation. However, the ownership and control information required by this paragraph need not be stated if the same information has been previously provided to TTB in connection with a permit application, and if the information previously provided is still current.

(c) Multiple locations and/or classes of tax. A taxpayer subject to special tax for the same period at more than one location or for more than one class of tax shall--

(1) File one special tax return, TTB Form 5630.5, with payment of tax, to cover all such locations and classes of tax; and

(2) Prepare, in duplicate, a list identified with the taxpayer's name, address (as shown on TTB Form 5630.5), employer identification number, and period covered by the return. The list shall show, by States, the name, address, and tax class of each location for which

1513-0113

special tax is being paid. The original of the list shall be filed with TTB in accordance with instructions on the return, and the copy shall be retained at the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer) for the period specified in Sec. 44.142.

(d) Signing of TTB Forms 5630.5--(1) Ordinary returns. The return of an individual proprietor shall be signed by the individual. The return of a partnership shall be signed by a general partner. The return of a corporation shall be signed by an officer. In each case, the person signing the return shall designate his or her capacity as "individual owner," "member of firm," or, in the case of a corporation, the title of the officer.

(2) Fiduciaries. Receivers, trustees, assignees, executors, administrators, and other legal representatives who continue the business of a bankrupt, insolvent, deceased person, etc., shall indicate the fiduciary capacity in which they act.

(3) Agent or attorney in fact. If a return is signed by an agent or attorney in fact, the signature shall be preceded by the name of the principal and followed by the title of the agent or attorney in fact. A return signed by a person as agent will not be accepted unless there is filed, with the TTB office with which the return is required to be filed, a power of attorney authorizing the agent to perform the act.

(4) Perjury statement. TTB Forms 5630.5 shall contain or be verified by a written declaration that the return has been executed under the penalties of perjury.

(26 U.S.C. 6061, 6065, 6151, 7011)

**Sec. 44.34 Employer identification number.**

(a) Requirement. The employer identification number (defined in 26 CFR 301.7701-12) of the taxpayer who has been assigned such a number shall be shown on each special tax return, including amended returns, filed under this subpart. Failure of the taxpayer to include the employer identification number may result in the imposition of the penalty specified in Sec. 70.113 of this chapter.

(b) Application for employer identification number. Each taxpayer who files a special tax return, who has not already been assigned an employer identification number, shall file IRS Form SS-4 to apply for one. The taxpayer shall apply for and be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file a special tax return. The employer identification number shall be applied for no later than 7 days after the filing of the taxpayer's first special tax return. IRS Form SS-4 may be obtained from the director of an IRS service center or from any IRS district director.

(c) Preparation and filing of IRS Form SS-4. The taxpayer shall prepare and file IRS Form SS-4, together with any supplementary statement, in accordance with the instructions on the form or issued in respect to it.

(26 U.S.C. 6109)

[T.D. ATF-271, 53 FR 17563, May 17, 1988, as amended by T.D. ATF-301, 55 FR 47658, Nov. 14, 1990]

1513-0113

**Sec. 44.35 Issuance, distribution, and examination of special tax stamps.**

(a) Issuance of special tax stamps. Upon filing a properly executed return on TTB Form 5630.5 together with the full remittance, the taxpayer will be issued an appropriately designated special tax stamp. If the return covers multiple locations, the taxpayer will be issued one appropriately designated stamp for each location listed on the attachment to TTB Form 5630.5 required by Sec. 44.33(c)(2), but showing, as to name and address, only the name of the taxpayer and the address of the taxpayer's principal place of business (or principal office in the case of a corporate taxpayer).

(b) Distribution of special tax stamps for multiple locations. On receipt of the special tax stamps, the taxpayer shall verify that there is one stamp for each location listed on the attachment to TTB Form 5630.5. The taxpayer shall designate one stamp for each location and type on each stamp the address of the business conducted at the location for which that stamp is designated. The taxpayer shall then forward each stamp to the place of business designated on the stamp.

(c) Examination of special tax stamps. All stamps denoting payment of special tax shall be kept available for inspection by appropriate TTB officers, at the location for which designated, during business hours.

(26 U.S.C. 5146, 6806)

**Sec. 44.36 Changes in special tax stamps.**

(a) Change in name. If there is a change in the corporate or firm name, or in the trade name, as shown on TTB Form 5630.5, the export warehouse proprietor shall file an amended special tax return as soon as practicable after the change, covering the new corporate or firm name, or trade names. No new special tax is required to be paid. The export warehouse proprietor shall attach the special tax stamp for endorsement of the change in name.

(b) Change in proprietorship--(1) General. If there is a change in the proprietorship of an export warehouse, the successor shall pay a new special tax and obtain the required special tax stamps.

(2) Exemption for certain successors. Persons having the right of succession provided for in paragraph (c) of this section may carry on the business for the remainder of the period for which the special tax was paid, without paying a new special tax, if within 30 days after the date on which the successor begins to carry on the business, the successor files a special tax return on TTB Form 5630.5 with TTB, which shows the basis of succession. A person who is a successor to a business for which special tax has been paid and who fails to register the succession is liable for special tax computed from the first day of the calendar month in which he or she began to carry on the business.

(c) Persons having right of succession. Under the conditions indicated in paragraph (b)(2) of this section, the right of succession will pass to certain persons in the following cases:

1513-0113

(1) Death. The widowed spouse or child, or executor, administrator or other legal representative of the taxpayer;

(2) Succession of spouse. A husband or wife succeeding to the business of his or her spouse (living);

(3) Insolvency. A receiver or trustee in bankruptcy, or an assignee for benefit of creditors;

(4) Withdrawal from firm. The partner or partners remaining after death or withdrawal of a member.

(d) Change in location. If there is a change in location of a taxable place of business, the export warehouse proprietor shall, within 30 days after the change, file with TTB an amended special tax return covering the new location. The export warehouse proprietor shall attach the special tax stamp or stamps, for endorsement of the change in location. No new special tax is required to be paid. However, if the export warehouse proprietor does not file the amended return within 30 days, he or she is required to pay a new special tax and obtain a new special tax stamp.

(26 U.S.C. 5143, 7011)