DEPARTMENT OF THE TREASURY
Alcohol and Tobacco Tax and Trade Bureau

Industry Circular

Number: 2016-2 December 30, 2016

Internal Revenue Code Amendments Eliminating Bond Requirements and Adding Annual Tax Return Periods for Eligible Alcohol Taxpayers

To: Alcohol Excise Taxpayers and Applicants for Permits and Brewers' Notices, and Others Concerned.

1. Purpose.

In this Industry Circular, the Alcohol and Tobacco Tax and Trade Bureau (TTB) is providing guidance regarding a change in tax return due dates and the removal of bond requirements for certain eligible taxpayers who pay taxes below certain maximum amounts on distilled spirits, wine, and beer. These changes result from the Protecting Americans from Tax Hikes Act of 2015 ("the PATH Act"), Public Law 114-113, signed into law on December 18, 2015, which amends certain sections of the Internal Revenue Code of 1986 (IRC). *See* 26 U.S.C. 5061 and 5551. These amendments will take effect on January 1, 2017.

TTB has developed regulations to implement these statutory changes, which will be published soon.

2. Overview of Changes.

Annual Filing. The PATH Act amendments to the IRC authorize a new annual tax return period. Beginning with the calendar quarter starting January 1, 2017, taxpayers who reasonably expect to be liable for not more than $1,000 in taxes imposed with respect to distilled spirits, wine, and beer for the calendar year and who were liable for not more than $1,000 in such taxes in the preceding calendar year, may pay those taxes annually, rather than semi-monthly or quarterly. (Certain wine proprietors already had the option to choose to file annually under 27 CFR 24.273.)

Taxpayers with multiple locations must combine their tax liability for all locations with respect to distilled spirits, wine, or beer to determine their eligibility to use the annual return period. Taxpayers who choose to use the annual return period must identify the return period they are using on their tax return form, and are not required to notify TTB in advance. The annual tax return will generally be due January 14th of each year. *See* 26 U.S.C. 5061.

Taxpayers who become ineligible to use the annual return period (for example, their excise taxes exceed $1,000 in a calendar year or they expect an increase in production capacity that would increase their excise tax liability to over $1,000) may choose to use either quarterly or semimonthly return periods, as authorized in the TTB regulations. *See* 27 CFR 19.235, 24.271, 25.164, 26.112.

Bond Exemption. The PATH Act amendments to the IRC also authorize a new bond exemption for certain eligible taxpayers. Beginning with the calendar quarter starting January 1, 2017, taxpayers who reasonably expect to be liable for not more than $50,000 in taxes imposed on distilled spirits, wine, and beer for the calendar year (and who were liable for not more than $50,000 in such taxes in the preceding calendar year) and who pay excise taxes on a semi-monthly, quarterly, or annual basis, are exempt from the requirements to file bonds covering operations or withdrawals of distilled spirits or wines for nonindustrial use, or beer.

Because eligibility for the bond exemption depends in part on a taxpayer's expected tax liability, taxpayers who are eligible for the bond exemption and who want to operate without a bond must notify TTB and obtain TTB approval. New applicants must notify TTB that they are eligible for the bond exemption during the initial application process. Existing taxpayers who wish to apply for the bond exemption must do so by amending their permit or brewers' notice.

TTB amended its application forms (including the online equivalents submitted using TTB's Permits Online system) to allow taxpayers to notify TTB that they are eligible for the bond exemption and request TTB approval to operate without a bond. For more efficient processing, TTB recommends that taxpayers who have previously applied using Permits Online, as well as all new applicants, use Permits Online to submit applications and amendments. Existing taxpayers who are not yet users of Permits Online should file this amendment by paper application.

New Applicants

To streamline the application process, TTB recently added a new data field for paper applications and applications submitted using Permits Online, in which applicants may indicate that they reasonably expect to pay less than $50,000 in excise taxes in the calendar year in which they begin operations. If applicants who make this indication are eligible for the bond exemption, TTB will process their applications so that they can operate without a bond upon approval. As a reminder, to remain eligible for the bond exemption, taxpayers must pay taxes on a semi-monthly, quarterly, or annual basis. Taxpayers who conduct operations or withdrawals of distilled spirits or wine for industrial use, are still required to furnish bonds to cover such activities.

Existing Proprietors

Existing taxpayers who are eligible for the bond exemption and wish to terminate their bonds must do so by amending their permits or brewers' notices, using Permits Online or the applicable paper forms. An existing taxpayer's eligibility for the bond exemption is based in part on the excise tax liability for the preceding calendar year. As a result, TTB cannot begin processing an existing taxpayer's bond termination request until it receives the taxpayer's final tax payments covering any remaining excise taxes incurred in 2016. If a taxpayer has not filed required reports, returns, or tax payments, TTB will not be able to verify its eligibility for the bond exemption.

Taxpayers may file for the bond exemption in any year they become eligible. For example, taxpayers who paid more than $50,000 in excise taxes in 2016, but pay less than $50,000 in such taxes in 2017 and reasonably expect to pay less than $50,000 in such taxes in 2018, may file for the bond exemption after January 1, 2018. However, a taxpayer must submit all required reports, returns, and tax payments for TTB to verify eligibility for the bond exemption.

Bond-related Terms in TTB Regulations

Taxpayers who are exempt from bond requirements under the PATH Act amendments will be treated as if they have sufficient bond coverage for purposes of statutory or regulatory provisions that reference bond coverage. For example, where the law and regulations use such terms as “transfer in bond” or “bonded premises,” taxpayers who are exempt from bond requirements will be treated as having a sufficient bond for withdrawals and transfers (assuming all other requirements are met and applicable applications are approved).

Questions. If you have any questions concerning this circular, please contact TTB’s National Revenue Center by email at TTBInternetQuestions@ttb.gov or by telephone at 877-882-3277.

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