



INDUSTRY CIRCULAR

**DEPARTMENT OF
THE TREASURY**

Bureau of Alcohol, Tobacco and Firearms

Washington, D.C. 20226

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UNEXPLAINED SHORTAGES OF BOTTLED WINE

Proprietors of Bonded Wine Cellars
and Others Concerned:

This circular is issued to inform you of our position concerning tax liability on unexplained shortages of bottled wine.

We have from time to time issued statements and established guidelines setting forth what actions might be taken under certain conditions where shortages of wine (as distinguished from losses) are reported after the wine has been bottled. However, it has not always been possible to avoid misinterpretations or to achieve a uniform application of such guidelines. We recognize that where the accuracy of a system is dependent on machines and people some errors occur, even when a proprietor exercises the utmost caution and control. It is expected, however, that each proprietor will devise and maintain an effective recordkeeping system and an effective system of security controls designed to prevent unauthorized and unrecorded removals.

The regulations in 27 CFR 240.912 provide that each proprietor who bottles wine or receives bottled wine, in bond, shall keep ATF Form 2621, Record of Bottled Wine, showing the quantity of wine bottled, the quantity of bottled wine received in bond, and the quantity of bottled wine removed each day. ATF Form 2621 provides for the showing thereon of breakage, inventory overage, inventory shortage, etc., of bottled wine.

The regulations in 27 CFR 240.900 provide that a summary of all operations of the bonded wine cellar shall be reported on ATF Form 702 (5120.17), Monthly Report of Wine Cellar Operations. This form has been revised to require that all proprietors who report losses of bottled wine (including inventory shortages) in Part I, Section B of ATF Form 702 (5120.17) must fully explain the losses in Part X, "Remarks," or explain the losses in a separate signed statement attached to the report.

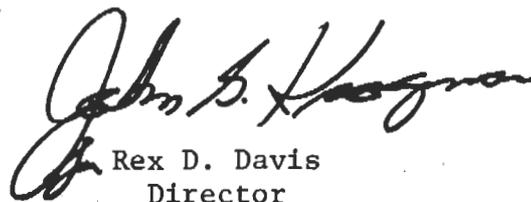
Under these regulations, winemakers are required to keep detailed records of their operations and to give complete

summaries thereof in their periodic reports. Our objective with respect to the verification of the recordkeeping system of tax-producing plants is to verify the removal of taxable products and to assure collection of the exact amount of tax due on such removals; no more and no less. Achievement of this objective includes checking the records of production, losses, inventory, removals, etc., to determine whether the proprietor maintains adequate record controls over each phase of his operation to assure proper accounting. We recognize that even though a proprietor has a seemingly adequate control system, overages and shortages may occur. Where shortages are found by inspectors or are reported in proprietors' reports, proprietors will be given an opportunity to explain how the shortages occurred, and a uniform yet a fair approach will be employed in making a determination as to whether the tax on such shortages will be assessed. In making such determination, the adequacy of the proprietor's recordkeeping procedures and of his security systems becomes a prime factor, since any such shortage is a persuasive indication that taxable removals may have occurred without payment of tax and that an assessment to collect the tax may be justified.

Under this policy, when a shortage of bottled wine is reported by a winemaker, or is disclosed by an examination of records or by other means, such winemaker shall be held liable for the tax involved. The winemaker will, however, be given every reasonable opportunity to explain and account for any particular shortage. Only after a complete evaluation of all facts and conditions relative to such shortages (including any offsetting gains in prior or subsequent accounting periods), and only after an evaluation of the proprietor's recordkeeping and security control systems, will an assessment be made or the proprietor be requested to include an appropriate adjustment in his next tax return. Proprietors are reminded, however, that repetitive instances of apparent shortages occurring as a result of inaccurate or inadequate records may result in action to impose or to compromise the penalties provided by law and regulations for failure to keep proper records.

The policy set forth above shall be effective January 1, 1977. Beginning with the month of January 1977, operations shall be reported on revised ATF Form 702 (5120.17) (8-76).

Inquiries regarding this circular should refer to its number and be addressed to the appropriate regional director, Bureau of Alcohol, Tobacco and Firearms.


Rex D. Davis
Director