



INDUSTRY CIRCULAR

DEPARTMENT OF
THE TREASURY
Bureau of Alcohol, Tobacco and Firearms
Washington, D.C. 20226

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UNTIMELY FILING OF EXCISE TAX RETURNS

Proprietors of Distilled Spirits Plants,
Bonded Wine Cellars, Breweries, Manufacturers of
Tobacco Products and Others Concerned:

PURPOSE. The purpose of this circular is to remind proprietors to file excise tax returns and to pay excise taxes in a timely manner.

BACKGROUND. Inasmuch as there have been several recent instances where industry members have failed to timely file excise tax returns and pay taxes, this is an appropriate time to inform proprietors of the consequences of failing to meet their obligations in this regard.

APPLICABLE LAWS. The untimely filing of excise tax returns creates a liability for interest on the unpaid amount of tax and may create liabilities for penalties. These liabilities arise under various statutes in the Internal Revenue Code of 1954, as amended, and include, but are not limited to: (1) a penalty for failure to file a return (26 U.S.C. 6651(a)(1)); (2) a penalty for failure to pay the amount of tax due in a timely manner (26 U.S.C. 5684(a), 5761(b), and 6651(a)(2)); and (3) interest on the unpaid amount of tax due (26 U.S.C. 6601(a)).

The impact of these penalties is illustrated by the fact that over the past year proprietors have incurred penalty liabilities ranging from \$27,000 to \$180,000 on tax returns which were in default only one to three days.

Enforcement of two of the penalty provisions (6651(a)(1) and 6651(a)(2)) hinges on whether the proprietor can show that he exercised ordinary business care and prudence and yet was unable to file a return on time or to pay the taxes on time. Ordinary business

care and prudence is not exhibited by reasons such as the following: (1) the proprietor forgot to file the return on time; (2) the Post Office didn't postmark the tax envelope at the time anticipated by the proprietor; (3) regulations were misinterpreted; or other similar reasons.

INQUIRIES. Proprietors who have questions about the application of the aforementioned laws, the due date of excise tax returns, or any other matter concerning timely filing of such returns should not hesitate to contact the appropriate ATF regional regulatory administrator.

A. R. Williams
Director

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