



Announcement

August 29, 2014

Napa Earthquake: Frequently Asked Questions

Due to the recent devastation caused by the August 24, 2014, Northern California earthquake and associated aftershocks, TTB has compiled the following FAQs as guidance for regulated industry members whose business have been adversely affected by the earthquake. Because of the number of wineries that are in that area, these FAQs mostly affect issues concerning wineries, but we have included guidance that affects other commodities.

I'm a retailer, and I lost wine, beer, distilled spirits, and tobacco products as a result of the earthquake. May I file a claim with TTB for a refund of the federal excise tax paid on all these products? My wholesale distributors have the same question.

Yes, retailers, wholesalers, and importers of beverage alcohol products and importers of tobacco products may file claims with TTB for a refund of the federal excise taxes paid on any beverage alcohol or tobacco products that were lost as a result of the August 24, 2014, Northern California earthquake. However, retailers and wholesalers of tobacco products may only file a claim if the loss occurs as the result of a presidentially declared major disaster. To determine if a Presidential declaration has been made, please visit [Disaster Declarations](http://www.fema.gov) at FEMA.gov. For detailed information on how to file a claim, please see [When Disaster Strikes](http://www.ttb.gov) at TTB.gov.

I lost a significant quantity of wine at my bonded premises as a result of the earthquake. Am I required to report my losses to TTB?

Yes. TTB regulations at [27 CFR 24.268](http://www.ttb.gov) require that proprietors report any casualty loss immediately to TTB. However, due to the extent of damage caused by the August 24, 2014, Northern California earthquake, TTB is not requiring that proprietors report their losses immediately. Proprietors should instead report their losses as soon as they are able to determine the extent of the damage to their inventories. In their submissions, proprietors should provide the following information:

- Name and address of the bonded wine premises
- Registry number of the bonded wine premises (“BWN/BWC/BW-State-xxxxx”)
- Kind of wine
- Alcohol content
- Approximate volume in gallons
- Date of loss
- Reason for loss (i.e., earthquake damage)
- Printed name of winery representative
- Signature (Person signing must have signing authority)
- Telephone number

This information should be submitted, either in letter form or as an email, to TTB’s National Revenue Center:

550 Main Street, Suite 8002
 Cincinnati, OH 45202-5215
 Toll-free: 877-882-3277
 Email: TTBInternetQuestions@ttb.gov

The volume of wine lost must be reported on [TTB F 5120.17, Report of Wine Premises Operations](#), for the reporting period during which the loss occurred.

I’ve heard that if I’m late filing for or paying my federal excise taxes due to the earthquake, TTB will consider waiving the late penalties and interest. How can I qualify for this waiver?

TTB will consider waiving late filing, payment, or deposit penalties on a case-by-case basis. Wherever warranted, waivers will be approved based on the statutory standard of reasonable cause and a lack of willful neglect demonstrated by the taxpayer.

To qualify for such a waiver, a taxpayer must:

- Demonstrate, to the satisfaction of the TTB National Revenue Center (NRC), that the earthquake directly affected your ability to timely file, pay, or deposit; and
- Contact the NRC:

550 Main Street, Suite 8002
 Cincinnati, OH 45202-5215
 Toll-free: 877-882-3277
 Email: TTBInternetQuestions@ttb.gov

How do I file a claim for a refund or credit of federal excise tax on wine I lost during the earthquake?

Businesses (retailers, wholesalers, importers, export warehouse proprietors, and manufacturers of beverage alcohol and importers, export warehouse proprietors, and manufacturers of tobacco products) may file claims with TTB for the payment (refund or allowance of credit) of federal excise taxes paid on beverage alcohol or tobacco products lost, rendered unmarketable, or condemned by a duly authorized official under various circumstances, including the August 24, 2014, Northern California earthquake. However, retailers and wholesalers of tobacco products may only file a claim if the loss occurs as the result of a presidentially declared major disaster. To determine if a Presidential declaration has been made, please [click here](#). For detailed information on how to file a claim, please see our webpage entitled [When Disaster Strikes](#).

What records should I keep of the spillage and breakage that occurred on my winery premises?

You should document the volume and tax class of wine lost in all appropriate TTB required records - for example, the bulk still wine record (see [27 CFR 24.301](#)) and the bottled or packed wine record (see [27 CFR 24.308](#)). Additionally, you must report the loss on your next [TTB F 5120.17, Report of Wine Premises Operations](#). The volume of bulk wine lost should be reported on line 29 of Part 1, Section A; the volume of bottled wine lost should be reported on line 18 of Part 1, Section B.

I need to destroy untaxpaid wine and/or wine spirits that was damaged during the earthquake. What TTB procedures do I need to follow?

The destruction of wine is provided for in [27 CFR 24.294](#), which requires that a proprietor first request permission from TTB's National Revenue Center to destroy the lot of wine before proceeding with the destruction. Due to the circumstances caused by the August 24, 2014, Northern California earthquake, TTB is waiving the requirement that proprietors must first obtain TTB approval before destroying the wine. However, proprietors must still submit a notification, as soon as practical, to the NRC containing the information required by §24.294. This notification should include the following information:

- Date of the letter
- Name and address of the bonded wine premises
- Registry number of the bonded wine premises ("BWN/BWC/BW-State-xxxxx")

- Kind of wine
- Alcohol content
- Approximate volume in gallons
- Where wine was destroyed
- Date of destruction
- Reason for destruction
- Printed name of winery representative
- Signature (Person signing must have signing authority)
- Telephone number

The notification should be faxed to the Wine Tax Unit at 202-453-2338, or mailed to:

TTB National Revenue Center
Attention: Wine Tax Unit
550 Main St., Suite 8002
Cincinnati, OH 45202

If you have wine spirits that must be destroyed, follow the procedure outlined in [27 CFR 24.235\(b\)](#). The notification should be sent to the District Director, Trade Investigations Division, who serves your area. For contact information, see our [Trade Investigation Division Office Location Map](#) at TTB.gov.

Please note that the wine must be destroyed in compliance with your local environmental and waste disposal rules.

Show the amount destroyed on [TTB F 5120.17, Report of Wine Premises Operations](#), for the period in which the product was destroyed. The volume of bulk wine destroyed will be entered in the write-in entry Lines 24-28 of Part I, Section A. The volume of bottled wine destroyed will be entered in the write-in entry lines 15-17 of Part I, Section B. The volume of wine spirits destroyed will be entered on line 7 of Part III.

Because of damage to my winery premises, I would like to transfer some of my wine in bond to another bonded wine facility for temporary storage. Will this affect my ability to claim the small producer credit on this wine?

If the wine is transferred in bond to another bonded wine premises and later transferred back to your winery, the transfers in bond will not affect your ability to take the small producer credit (note that you must not produce more than 250,000 gallons of wine in the year of removal).

As long as you are eligible for the small producer credit, you may transfer the credit for any wine that is entirely of your own production to another bonded wine premises, such as a bonded wine cellar (BWC), in accordance with 27 CFR 24.278(b)(2). Please note that you may not transfer the credit on any wine that you did not produce. If you transfer wine that is a blend of wine you produced and wine purchased from another winery, the percentage that you did not produce must be tax paid at the full tax rate upon removal by the transferee. Alternatively, you may consider immediately claiming the full tax credit on eligible wine by paying the tax yourself and transferring the wine yourself to another location for tax paid storage.

In order to be eligible to claim or transfer the tax credit, you must have production in the year the wine is removed tax paid. For additional questions about transferring the small producer credit, read **W7, What are the rules for transferring small domestic producer's tax credit?** at our [wine FAQs page](#) at TTB.gov.