



**DEPARTMENT OF HOMELAND SECURITY
U.S. Customs and Border Protection**

DEPARTMENT OF THE TREASURY

19 CFR Part 24

[CBP Dec. 24-05; Docket No. USCBP-2018-0033]

RIN 1515-AE39

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Refund of Alcohol Excise Tax

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security;
Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, with no changes, interim amendments to the U.S. Customs and Border Protection (CBP) regulations that were published in the *Federal Register* on December 30, 2022, as CBP Decision 22–26. Pursuant to these changes, the responsibility for administering refunds, reduced tax rates, and tax credits on imported alcohol moved from CBP to the U.S. Department of the Treasury, on January 1, 2023.

DATES: This rule is effective as of [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

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I. Background

Sections 13801–13808 of the Tax Cuts and Jobs Act of 2017 (Pub. L. 115–97), signed December 22, 2017, commonly referred to as the Craft Beverage Modernization Act (CBMA), amended the Internal Revenue Code for two calendar years with respect to the tax treatment of imported alcohol, including beer, wine, and distilled spirits. The CBMA authorized reduced tax rates and tax credits for imported alcohol and permitted the refund of taxes paid prior to assigning a reduced tax rate or tax credit. On August 16, 2018, U.S. Customs and Border Protection (CBP) published an interim final rule, CBP Decision (CBP Dec.) 18-09, in the *Federal Register* (83 FR 40675), updating the language of title 19 of the Code of Federal Regulations (CFR) to implement the CBMA and make other technical changes to 19 CFR part 24.

On December 19, 2019, the Further Consolidated Appropriations Act was signed, which extended the relevant provisions of the CBMA through calendar year 2020. *See* Pub. L. 116 – 94. On December 27, 2020, the Taxpayer Certainty and Disaster Tax Relief Act of 2020 (Tax Relief Act) was enacted. *See* Pub. L. No. 116–260, Division EE, sections 106–110. The Tax Relief Act amended and made permanent the CBMA, and directed the Secretary of the Treasury to implement and administer amended provisions concerning imported alcohol, in coordination with CBP. This authority was subsequently delegated to the Alcohol and Tobacco Tax and Trade Bureau (TTB). The relevant provisions of the Tax Relief Act became effective on January 1, 2023.

On December 30, 2022, CBP published an interim final rule, CBP Dec. 22-26, in the *Federal Register* (87 FR 80442) to update the regulations issued in CBP Dec. 18-09, to reflect the transfer of authority for administration of the CBMA import refund program to TTB, and to direct the public to the relevant TTB regulations regarding refunds administered by TTB, in 27 CFR parts 27 and 70. Specifically, the interim final rule amended section 24.36 of title 19 of the Code of Federal Regulations (19 CFR 24.36). CBP Dec. 22-26 provided for the submission of comments from December 30, 2022, to March 2, 2023. No comments were received.

II. Conclusion

CBP is adopting as final the interim rule, CBP Dec. 22-26, published in the *Federal Register* (87 FR 80442) on December 30, 2022, without changes.

III. Statutory and Regulatory Requirements

A. Executive Orders 13563, 12866, and 14094

Executive Orders 13563 and 12866 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule is not a “significant regulatory action,” under section 3(f) of Executive Order 12866, as amended by Executive Order 14094. Accordingly, the Office of Management and Budget (OMB) has not reviewed this regulation.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996, requires an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of a proposed rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions) when the agency is required to publish a general notice of proposed rulemaking for

a rule. Since a general notice of proposed rulemaking is not necessary for this final rule, CBP is not required to prepare a regulatory flexibility analysis for this final rule.

C. Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule, because this final rule does not trigger any new or revised recordkeeping or reporting.

IV. Signing Authority

This final rule is being issued by CBP in accordance with section 0.1(a)(1) of the CBP regulations (19 CFR 0.1(a)(1)) pertaining to the authority of the Secretary of the Treasury (or the Secretary's delegate) to approve regulations related to certain customs revenue functions. The Senior Official Performing the Duties of the Commissioner Troy A. Miller, having reviewed and approved this document, has delegated the authority to electronically sign the document to the Director (or Acting Director, if applicable) of the Regulations and Disclosure Law Division of CBP, for purposes of publication in the *Federal Register*.

Amendments to the Regulations

List of Subjects in 19 CFR Part 24

Accounting, Claims, Harbors, Reporting and recordkeeping requirements, Taxes.

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

Accordingly, the interim final rule amending part 24 of title 19 of the Code of Federal Regulations (19 CFR part 24), which was published in the *Federal Register* at 87 FR 80442 on December 30, 2022 (CBP Dec. 22-26), is adopted as final, without change.

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