



# TaxNewsFlash

## United States

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### **TTB guidance: Calculating effective tax rates for distilled spirits products (pursuant to new tax law)**

The U.S. Treasury Department's Alcohol and Tobacco Tax and Trade Bureau (TTB) issued an "industry circular" concerning how to calculate the effective tax rates for distilled spirits products containing eligible wine and eligible flavors, and how to obtain approval of standard effective tax rates for imported distilled spirits products.

The TTB in issuing the [industry circular \(2018-04\)](#) offers guidance on how to calculate the "effective tax rate" for distilled spirits products containing eligible wine and eligible flavors pursuant to changes made by the new tax law (Pub. L. No. 115-97, enacted December 22, 2017).

The term "effective tax rate" refers to the tax rate applicable to a distilled spirits product after subtracting the credits allowable under section 5010 for the wine content and flavors content of the product.

The TTB industry circular provides:

- Guidance for distilled spirits plants (DSPs) and importers on how to calculate effective tax rates for distilled spirits products that are subject to reduced tax rates
- Guidance for importers on how to obtain TTB approval of "standard effective tax rates" (SETRs) for imported products that are eligible for reduced tax rates

### **Background**

Under sections 5001 and 7652, a tax is imposed on all spirits produced in or imported into the United States at \$13.50 per proof gallon. Wines containing more than 24% of alcohol by volume are taxed as spirits. A credit against this tax is allowed under section 5010 on each proof gallon of alcohol derived from eligible wine or eligible alcohol-containing flavors that do not exceed 2.5% of the finished product on a proof

gallon basis. These credits apply to distilled spirits that are subject to the reduced tax rates of \$2.70 and \$13.34 per proof gallon for 2018-2019.

### **Calculating effective tax rates, distilled spirits products subject to reduced tax rates**

Provisions under the TTB regulations (27 CFR 19.246 and 27.41) prescribe how DSPs and importers, respectively, must compute effective tax rates for distilled spirits products.

The equation outlined in the TTB regulations for calculating effective tax rates applies in instances when the taxes are determined on the product at a rate of \$13.50 per proof gallon, but this equation does not apply in situations when the taxes are determined at rates of \$2.70 or \$13.34 per proof gallon.

The TTB industry circular sets out steps for calculating effective tax rates when reduced rates apply. If the resulting number is greater than or equal to zero, this number represents the actual effective tax rate for the product on a proof gallon basis. Alternatively, if the resulting number is less than zero, then the actual effective tax rate for the product on a proof gallon basis is equal to zero.

The TTB industry circular provides examples illustrating the calculation method.

This industry circular also provides guidance for importers on how to obtain TTB approval of standard effective tax rates under 27 CFR 27.77 for imported products that are eligible for reduced tax rates under the new law.

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