

Bureau of Alcohol, Tobacco and Firearms (A.T.F.)
Department of the Treasury

Treasury Decision

PROCEDURE AND ADMINISTRATION
27 CFR PART 70: Procedure and Administration
January 1974

TITLE 27--ALCOHOL, TOBACCO PRODUCTS AND FIREARMS--CHAPTER I--BUREAU OF ALCOHOL,
TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY, SUBCHAPTER F-- PROCEDURES AND
PRACTICES

The following regulations are hereby prescribed as Part 70 of Title 27 of the Code of Federal Regulations (a portion of the CFR devoted exclusively to alcohol, tobacco, firearms, and explosive matters, as administered and enforced by the Bureau of Alcohol, Tobacco and Firearms). These regulations, which were formerly included in **26 CFR Part 301** (a portion of the CFR currently devoted to both Internal Revenue and Bureau of Alcohol, Tobacco and Firearms matters), **set forth the procedural and administrative rules of the Bureau relating to: the issuance and enforcement of summonses; examination of books of accounts and witnesses;** administration of oaths; entry of premises for examination of taxable objects; granting of rewards for information; canvassing of regions for taxable objects and persons; and the authority of officers of the Bureau. At a later date additional provisions, based on those in 26 CFR Part 301 which still have application to Bureau activities, will be published in 27 CFR Part 70.

1. The regulations in this part supersede that portion of 26 CFR Part 301 under the center headnote of 'Discovery of Liability and Enforcement of Title' embracing §§ **301.7601 through 301.7655**, to the extent that it applied to laws formerly administered **by the Alcohol, Tobacco and Firearms Division of the Internal Revenue Service** and as of July 1, 1972, administered by the Bureau of Alcohol, Tobacco and Firearms, under Treasury Department Order No. 221.
2. These regulations shall not affect any act done or any liability or right accruing, or accrued, or any suit or proceeding had or commenced before the effective date of these regulations.
3. The regulations in this part shall become effective on November 26, 1973.

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AUTHORITY: (26 U.S.C. 7805, 18 U.S.C. 926, 847); 68A Stat. 917, 82 Stat. 234, 84 Stat. 959. Statutory provisions interpreted or applied are cited to text in parentheses.

Subpart A--Scope

- § 70.1 General.

This part sets forth the **procedural and administrative rules** of the Bureau of Alcohol, Tobacco and Firearms for the issuance and enforcement of summonses, examination of books of account and witnesses, administration of oath, entry of premises for examination of taxable objects, granting of rewards for information, canvass of regions for taxable objects and persons, and authority of officers of the Bureau.

Subpart B--Definitions

- § 70.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words imparting the masculine gender shall include the feminine. The terms 'includes' and 'including' do not exclude things not enumerated which are in the same general class.

Bureau. The Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, Washington, D.C. 20226.

CFR. The Code of Federal Regulations.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms.

Regional Director. A Regional Director who is responsible to, and functions under the direction and supervision of, the Director, Bureau of Alcohol, Tobacco and Firearms.

U.S.C. The United States Code.

Subpart C--Discovery of Liability and Enforcement of Laws

EXAMINATION AND INSPECTION

§ 70.21 Canvass of regions for taxable persons and objects.

Each regional director shall, to the extent he deems it practicable, cause officers or employees under his supervision and control to proceed, from time to time, through his region and inquire after and concerning all persons therein who may be liable to pay any tax, imposed under 26 U.S.C. Subtitle E, and all persons owning or having the care and management of any objects with respect to which such tax is imposed.

(68A Stat. 901; 26 U.S.C. 7601)

§ 70.22 Examination of books and witnesses.

(a) In general. For the purpose of ascertaining the correctness of any return, making a return where none has been made, determining the liability of any person for any tax imposed under 26 U.S.C. Subtitle E (including any interest, additional amount, addition to the tax, or civil penalty) or the liability at law or in equity of any transferee or fiduciary of any person in respect of any such tax, or collecting any such liability, any authorized officer or employee of the Bureau may examine any books, papers, records or other data which may be relevant or material to such inquiry; and take such testimony of the person concerned, under oath, as may be relevant to such inquiry.

(b) Summonses. For the purposes described in paragraph (a) of this section the officers and employees of the Bureau designated in paragraph (c) of this section are authorized to summon the person liable for tax or required to perform the act, or any officer or employee of such person, or any person having possession, custody, or care of books of accounts containing entries relating to the business of the person liable for tax or required to perform the act, or any person deemed proper, to appear before a designated officer or employee of the Bureau at a time and place named in the summons and to produce such books, papers, records, or other data, and to give such testimony, under oath, as may be relevant or material to such inquiry; and take such testimony of the person concerned, under oath, as may be relevant or material to such inquiry. The officers and employees designated in paragraph (c) of this section may designate any other employee of the Bureau as the individual before whom a person summoned pursuant to 26 U.S.C. 7602 shall appear. Any such other employee, when so designated in a summons, is authorized to take testimony under oath of the person summoned and to receive and examine books, papers, records, or other data produced in compliance with the summons. The authority to issue a summons may not be redelegated.

(c) Persons who may issue summonses. The following officers and employees of the Bureau are authorized to issue summonses pursuant to 26 U.S.C. 7602:

- (1) Regional directors; and
- (2) Office of Inspection: Assistant Director, Deputy Assistant Director, and regional inspectors.

(68A Stat. 901; 26 U.S.C. 7602)

§ 70.23 Service of summonses.

(a) In general. A summons issued under 26 U.S.C. 7602 shall be served by an attested copy delivered in hand to the person to whom it is directed, or left at his last and usual place of abode. The certificate of service signed by the person serving the summons shall be evidence of the facts it states on the hearing of an application for the enforcement of the summons. When the summons requires the production of books, papers, records, or other data, it shall be sufficient if such books, papers, records, or other data are described with reasonable certainty.

(b) Persons who may serve summonses. The following officers and employees of the Bureau are authorized to serve a summons issued under 26 U.S.C. 7602:

- (1) The officers and employees designated in paragraph (c) of § 70.22; and
- (2) Assistant regional directors; chiefs, field operations; area supervisors and inspectors, Regulatory Enforcement; inspectors, Office of Inspection; and all special agents, Criminal Enforcement.

The authority to serve a summons may be redelegated only by the Assistant Director, Office of Inspection, and regional directors, to officers and employees under this jurisdiction.

(68 Stat. 902, as amended; 26 U.S.C. 7603)

§ 70.24 Enforcement of summonses.

(a) In general. Whenever any person summoned under 26 U.S.C. 7602 neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required, application may be made to the judge of the district court or to a U.S. magistrate for the district within which the person so summoned resides or is found for an attachment against him as for a contempt.

(b) Persons who may apply for an attachment. The officers and employees of the Bureau designated in paragraph (c) of § 70.22 are authorized to apply for an attachment as provided in paragraph (a) of this section. The authority to apply for an attachment for the enforcement of a summons may not be redelegated.

(68A Stat. 902, as amended; 26 U.S.C. 7604)

§ 70.25 Time and place of examination.

(a) Time and place. The time and place of examination pursuant to the provisions of 26 U.S.C. 7602 shall be such time and place as may be fixed by an officer or employee of the Bureau and as are reasonable under the circumstances. The date fixed for appearance before an officer or employee of the Bureau shall not be less than 10 days from the date of the summons.

(b) Restrictions on examination of taxpayer. No taxpayer shall be subjected to unnecessary examination or investigations, and only one inspection of a taxpayer's books of account shall be made for each taxable year unless the taxpayer requests otherwise or unless an authorized internal revenue or Bureau officer, after investigation, notifies the taxpayer in writing that an additional inspection is necessary.

(68A Stat. 902, as amended; 26 U.S.C. 7605)

§ 70.26 Entry of premises for examination of taxable objects.

(a) General. Any officer of the Bureau may, in the performance of his duty, enter in the daytime any building or place where any articles or objects subject to tax are made, produced, or kept, so far as it may be necessary for the purpose of

examining said articles or objects and also enter at night any such building or place, while open, for a similar purpose.

(b) Distilled spirits plants. Any officer of the Bureau may, at all times, as well by night as by day, enter any plant or any other premises where distilled spirits are produced or rectified, or structure or place used in connection therewith for storage or other purposes; to make examination of the materials, equipment and facilities thereon; and make such gauges and inventories as he deems necessary. Whenever any Bureau officer, having demanded admittance, and having declared his name and office, is not admitted to such premises by the proprietor or other person having charge thereof, he may at all times, use such force as is necessary for him to gain entry to such premises.

(c) Authority to break up grounds. Any officer of the Bureau, and any person acting in his aid, may break up the ground on any part of a distilled spirits plant, or any other premises where spirits are produced or rectified, or any ground adjoining or near to such plant or premises, or any wall or partition thereof, or belonging thereto, or other place, to search for any pipe, cock, private conveyance, or utensil; and, upon finding any such pipe or conveyance leading therefrom or thereto, to break up any ground, house, wall, or other place through or into which such pipe or other conveyance leads, and to break or cut away such pipe or other conveyance, and turn any cock, or to determine whether such pipe or other conveyance conveys or conceals any spirits, mash, wort, or beer, or other liquor, from the sight or view of the officer, so as to prevent or hinder him from taking a true account thereof.

(68A Stat. 903, 72 Stat. 1357; 26 U.S.C. 7606, 5203)

§ 70.27 Examination of records and objects.

Any officer of the Bureau may enter, during business hours, the premises of any regulated establishment for the purpose of inspecting and examining any records, articles, or other objects required to be kept by such establishment under 18 U.S.C. Chapter 40 or 44, or 26 U.S.C. Chapter 51, 52, or 53, or regulations issued pursuant thereto.

(68A Stat. 715, as amended, 903, 72 Stat. 1348, 1361, 1373, 1381, 1390, 1391, 1395, 82 Stat. 231, as amended, 84 Stat. 955; 26 U.S.C. 5741, 7606, 5146, 5207, 5275, 5367, 5415, 5504, 5555, 18 U.S.C. 923, 843)

§ 70.28 Authority of enforcement officers of the Bureau.

Any special agent or other officer of the Bureau by whatever term designated, whom the Director or a regional director charges with the duty of enforcing any of the criminal, seizure, or forfeiture provisions of the laws administered and enforced by the Bureau pertaining to commodities subject to regulation by the Bureau, the enforcement of which such officers are responsible, may perform the following functions:

- (a) Carry firearms;
- (b) Execute and serve search warrants and arrest warrants, and serve subpoenas and summonses issued under authority of the United States;
- (c) In respect to the performance of such duty, make arrests without warrant for any offense against the United States committed in his presence, or for any felony cognizable under the laws of the United States if he has reasonable grounds to believe that the person to be arrested has committed, or is committing, such felony; and
- (d) In respect to the performance of such duty, make seizures of property subject to forfeiture to the United States.

(53 Stat. 1291, 62 Stat. 840, 68 Stat. 848, as amended, 72 Stat. 1429, as amended, 82 Stat. 233, as amended, 84 Stat. 956; 49 U.S.C. 782, 18 U.S.C. 3615, 22 U.S.C. 1934, 26 U.S.C. 7608, 18 U.S.C. 924, 844)

GENERAL POWERS AND DUTIES

§ 70.35 Authority to administer oaths and certify.

The officers and employees of the Bureau designated in paragraph (b) of § 70.23 are authorized to administer such oaths or affirmations and to certify to such papers as may be necessary under the tax laws administered by the Bureau, the Federal Alcohol Administration Act, or regulations issued thereunder, except that the authority to certify shall not be construed as applying to those papers or documents the certification of which is authorized by separate order or directive. The authority to administer oaths and to certify may be redelegated only by the Assistant Director, Office of Inspection, and regional directors, to officers and employees under their jurisdiction.

(68A Stat. 904; 26 U.S.C. 7622)

§ 70.36 Rewards for information relating to violations of tax laws administered by the Bureau.

(a) In general. A regional director may approve such reward as he deems suitable for information that leads to the detection and punishment of any person guilty of violating any tax law administered by the Bureau or conniving at the same. The rewards provided for by 26 U.S.C. 7623 are limited in their aggregate to the sum appropriated therefor and shall be paid only in cases not otherwise provided for by law.

(b) Eligibility to file claim for reward.--(1) In general. Any person, other than certain present or former federal employees (see subparagraph (2) of this paragraph), who submits, in the manner set forth in paragraph (d) of this section, information relating to the violation of tax laws administered and enforced by the Bureau, is eligible to file a claim for reward under 26 U.S.C. 7623.

(2) Federal employees. No person who was an officer or employee of the Department of the Treasury at the time he came into possession of information relating to violations of tax laws administered by the Bureau, or at the time he divulged such information, shall be eligible for reward under 26 U.S.C. 7623 and this section. Any other federal employee, or former federal employee, is eligible to file a claim for reward if the information submitted came to his knowledge other than in the course of his official duties.

(3) Deceased informants. A claim for reward may be filed by an executor, administrator, or other legal representative on behalf of a deceased informant if, prior to his death, the informant was eligible to file a claim for such reward under 26 U.S.C. 7623 and this section. Certified copies of the letters testamentary, letters of administration, or other similar evidence must be annexed to such a claim for reward on behalf of a deceased informant in order to show the authority of the legal representative to file the claim for reward.

(c) Amount and payment of reward. All relevant factors, including the value of the information furnished in relation to the facts developed by the investigation of the violation, shall be taken into account by a regional director in determining whether a reward shall be paid, and, if so, the amount thereof. The amount of a reward shall represent what the regional director deems to be adequate compensation in the particular case, normally not to exceed 10 percent of the additional taxes, penalties, and fines which are recovered as a result of the information. No reward, however, shall be paid with respect to any additional interest that may be collected. Payment of a reward will be made as promptly as the circumstances of the case permit, but generally not until the taxes, penalties, or fines involved have been collected. However, the informant may waive any claim for reward with respect to an uncollected portion of the taxes, penalties, or fines involved, in which case the claim may be immediately processed. No person is authorized under these regulations to make any offer, or promise, or otherwise to bind a regional director with respect to the payment of any reward or the amount thereof.

(d) Submission of information. Persons desiring to claim rewards under the provisions of 26 U.S.C. 7623 and this section may submit information relating to violations of tax laws administered by the Bureau, in person, to the Office of the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226 or to the office of a regional director. If the information is submitted in person, either orally or in writing, the name and official title of the person to whom it is submitted and the date on which it is submitted must be included in the formal claim for reward.

(e) Anonymity. No unauthorized person shall be advised of the identity of an informant.

(f) Filing claim for reward. An informant who intends to claim a reward under 26 U.S.C. 7623 should notify the person to whom he submits his information of such intention, and must file a formal claim, signed with his true name, as soon after submission of the information as practicable. If other than the informant's true name was used in furnishing the information, the claimant must include with his claim satisfactory proof of his identity as that of the informant. Claim for reward under the provisions of 26 U.S.C. 7623 shall be made on Form 25. Form 25 should be obtained from offices where claims for reward may be submitted: these are offices of regional directors and the Office of the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226.

(68A Stat. 904; 26 U.S.C. 7623)

POSSESSIONS

§ 70.41 Shipments to the United States.

For regulations under 26 U.S.C. 7652, see 26 CFR Part 250 relating to liquors and articles from Puerto Rico and the Virgin Islands; and 26 CFR Part 275 relating to cigars, cigarettes, and cigarette papers and tubes.

(68A Stat. 907, as amended; 26 U.S.C. 7652)

§ 70.42 Shipments from the United States.

For regulations under 26 U.S.C. 7653, see 26 CFR Part 196 relating to stills; 26 CFR Part 252 relating to exportation of liquors; and 26 CFR Part 290, relating to exportation of cigars, cigarettes, and cigarette papers and tubes.

(68A Stat. 908, as amended; 26 U.S.C. 7653)

Because this Treasury decision merely recodifies the portion of 26 CFR Part 301 entitled 'Discovery of Liability and Enforcement of Title' into 27 CFR Part 70, it is found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b), or subject to the effective date limitation of 5 U.S.C. 553(d). Accordingly, this Treasury decision shall become effective on November 26, 1973.

Rex D. Davis

Director, Bureau of Alcohol, Tobacco and Firearms

Approved: October 31, 1973.

Edward L. Morgan

Assistant Secretary of the Treasury

(Filed by the Office of the Federal Register on November 23, 1973, 8:45 a.m., and published in the Federal Register for November 26, 1973, **38 F.R. 32445**)

T.D. ATF-6, 1974-1 A.T.F.B. 7, 1974 WL 26983 (ATF)

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