

the language "an individual" is removed, and "the donor" is added in its place.

2. Paragraph (c)(2)(vii)(a) is amended as follows:

a. In the sixth sentence, the language "of years" is added after the word "term", the language "an individual or individuals" is removed, and "certain individuals" is added in its place.

b. The last sentence is removed, and four new sentences are added in its place.

3. Paragraph (e) is amended by adding nine new sentences to the end of the paragraph.

The additions read as follows:

**§ 25.2522(c)-3 Transfers not exclusively for charitable, etc., purposes in the case of gifts made after July 31, 1969.**

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(vi) \* \* \* (a) \* \* \* Only one or more of the following individuals may be used as measuring lives: the donor, the donor's spouse, and a lineal ancestor of all the remainder beneficiaries. However, this limitation regarding permissible measuring lives does not apply in the case of a charitable guaranteed annuity interest payable under a charitable remainder trust described in section 664. An interest payable for a specified term of years can qualify as a guaranteed annuity interest even if the governing instrument contains a savings clause intended to ensure compliance with a rule against perpetuities. The savings clause must utilize a period for vesting of 21 years after the deaths of measuring lives who are selected to maximize, rather than limit, the term of the trust. \* \* \*

\* \* \* \* \*

(vii) \* \* \* (a) \* \* \* Only one or more of the following individuals may be used as measuring lives: the donor, the donor's spouse, and a lineal ancestor of all the remainder beneficiaries. However, this limitation regarding permissible measuring lives does not apply in the case of a charitable unitrust interest payable under a charitable remainder trust described in section 664. An interest payable for a specified term of years can qualify as a unitrust interest even if the governing instrument contains a savings clause intended to ensure compliance with a rule against perpetuities. The savings clause must utilize a period for vesting of 21 years after the deaths of measuring lives who are selected to maximize, rather than limit, the term of the trust.

\* \* \* \* \*

(e) *Effective date.* \* \* \* In addition, the rule in paragraphs (c)(2)(vi)(a) and

(vii)(a) of this section that guaranteed annuity interests or unitrust interests, respectively, may be payable for a specified term of years or for the life or lives of only certain individuals, applies to transfers made on or after April 4, 2000. If a transfer is made on or after April 4, 2000, that uses an individual other than one permitted in paragraphs (c)(2)(vi)(a) and (vii)(a) of this section, the interest may be reformed into a lead interest payable for a specified term of years. The term of years is determined by taking the factor for valuing the annuity or unitrust interest for the named individual measuring life and identifying the term of years (rounded up to the next whole year) that corresponds to the equivalent term of years factor for an annuity or unitrust interest. For example, in the case of an annuity interest payable for the life of an individual age 40 at the time of the transfer, assuming an interest rate of 7.4% under section 7520, the annuity factor from column 1 of Table S(7.4), contained in IRS Publication 1457, Book Aleph, for the life of an individual age 40 is 12.0587 (Publication 1457 is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.). Based on Table B(7.4), contained in IRS Publication 1457, Book Aleph, the factor 12.0587 corresponds to a term of years between 31 and 32 years. Accordingly, the annuity interest must be reformed into an interest payable for a term of 32 years. A judicial reformation must be commenced prior to the later of the date that is 6 months after the date these regulations are published as final regulations, or October 15th of the year following the year in which the transfer is made and must be completed within a reasonable time after it is commenced. A non-judicial reformation is permitted if effective under state law, provided it is completed by the date on which a judicial reformation must be commenced. In the alternative, if a court, in a proceeding that is commenced on or before 6 months after these regulations are published as final regulations, declares any transfer, made on or after April 4, 2000 and on or before the date that is 60 days after the date these regulations are published as final regulations, null and void ab initio, the Internal Revenue Service will treat such transfers in a manner similar to that described in section 2055(e)(3)(j).

**Charles O. Rossotti,**

*Commissioner of Internal Revenue.*

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## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco and Firearms

#### 27 CFR Part 4

[Notice No. 895; Ref: Notice No. 890]

RIN: 1512-AB86

#### Labeling of Flavored Wine Products (98R-317P)

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

**ACTION:** Notice of proposed rulemaking; reopening of comment period.

**SUMMARY:** This notice reopens the comment period for Notice No. 890, a notice of proposed rulemaking, published in the **Federal Register** on December 28, 1999. ATF has received a request to extend the comment period in order to provide sufficient time for all interested parties to respond to the issues raised in the notice.

**DATES:** Written comments must be received on or before May 5, 2000.

**ADDRESSES:** Send written comments to: Chief, Regulations Division; Bureau of Alcohol, Tobacco and Firearms; P.O. Box 50221; Washington, DC 20091-0221; *ATTN: Notice No. 895*. Written comments must be signed. Submit e-mail comments to: [nprm@atfhq.atf.treas.gov](mailto:nprm@atfhq.atf.treas.gov). E-mail comments must contain your name, mailing address, and e-mail address. They must also reference this notice number and be legible when printed on not more than three pages 8½" x 11" in size. We will treat e-mail as originals and we will not acknowledge receipt of e-mail. See Public Participation section of this notice for alternative means of commenting.

**FOR FURTHER INFORMATION CONTACT:** James P. Ficareta, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202-927-8210).

#### SUPPLEMENTARY INFORMATION:

##### Background

On December 28, 1999, we published a notice of proposed rulemaking (NPRM) in the **Federal Register** soliciting comments from the public and industry on a proposal to amend the regulations to create a new standard of identity for flavored wine products (Notice No. 890, 64 FR 72612).

The comment period for Notice No. 890 closed on March 29, 2000. Prior to the close of the comment period ATF

received a request from Heaven Hill Distilleries, Inc. ("Heaven Hill") to extend the comment period 90 days. Heaven Hill stated that it has a number of specialty products that would be affected by the proposed changes and that it needed additional time to evaluate all products concerned in order to develop an appropriate response to the issues addressed in the notice.

In consideration of the above, we believe that a reopening of the comment period is warranted. However, the comment period is being reopened for 30 days. We believe that a comment period totaling 120 days is a sufficient amount of time for all interested parties to respond.

### Public Participation

You may also submit comments by facsimile transmission to (202) 927-8602. Facsimile comments must:

- Be legible;
- Reference this notice number;
- Be 8½" x 11" in size;
- Contain a legible written signature; and
- Be not more than three pages long.

We will not acknowledge receipt of facsimile transmissions. We will treat facsimile transmissions as originals.

### Disclosure

Copies of this notice, Notice No. 890, and the written comments will be available for public inspection during normal business hours at: ATF Public Reading Room, Room 6480, 650 Massachusetts Avenue, NW, Washington, DC.

### Drafting Information

The author of this document is James P. Ficaretta, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

### List of Subjects 27 CFR Part 4

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and containers, and Wine.

### Authority and Issuance

This notice is issued under the authority in 27 U.S.C. 205.

Signed: March 30, 2000.

**Bradley A. Buckles,**  
*Director.*

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## LIBRARY OF CONGRESS

### Copyright Office

#### 37 CFR Part 201

[Docket No. RM 2000-3A]

#### Public Performance of Sound Recordings: Definition of a Service

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Request for comments.

**SUMMARY:** The Copyright Office is seeking comments on a motion to suspend the rulemaking proceeding which would determine whether transmissions of a broadcast signal over a digital communications system, such as the internet, are exempt from copyright liability.

**DATES:** Written comments are due on April 17, 2000. Reply comments are due May 1, 2000.

**ADDRESSES:** If sent by mail, an original and ten copies of comments and reply comments should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, D.C. 20024. If hand delivered, they should be brought to: Office of the General Counsel, James Madison Memorial Building, Room LM-403, First and Independence Avenue, S.E., Washington, D.C. 20559-6000.

**FOR FURTHER INFORMATION CONTACT:** David O. Carson, General Counsel, or Tanya M. Sandros, Senior Attorney, Copyright Arbitration Royalty Panel, PO Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707-8380. Telefax: (202) 252-3423.

#### SUPPLEMENTARY INFORMATION:

##### Background

On March 1, 2000, the Recording Industry Association of America, Inc. ("RIAA") filed a petition with the Copyright Office, requesting that it initiate a rulemaking proceeding to determine whether over-the-air broadcast radio transmissions that are transmitted over the Internet are exempt from copyright liability pursuant to section 114 of the Copyright Act, title 17 of the United States Code. On March 16, 2000, the Office published a notice of proposed rulemaking in which it requested comments on the scope of the section 114(a) exemption and whether the Office should decide this question through a notice and comment proceeding. 65 FR 14227 (March 16, 2000).

In response to that notice, the National Association of Broadcasters

("NAB") filed, on behalf of its members, a complaint against the RIAA in the U.S. District Court for the Southern District of New York seeking a declaratory ruling that a simultaneous transmission of an over-the-air broadcast of an FCC-licensed radio station over the Internet is exempt from the digital performance right in sound recordings and, consequently, is not subject to compulsory licensing under section 114 of the Act, or to discretionary licensing by individual copyright holders. Subsequently, NAB and ABC, Inc., AMFM, Inc., Bonneville International Corporation, CBS Corporation, Clear Channel Communications, Inc., Cox Radio, Inc., Emmis Communications Corporation and the Walt Disney Company (collectively "movants") filed a motion with the Copyright Office on March 29, 2000, requesting a suspension of the rulemaking proceeding regarding the Digital Performance Right in Sound Recordings.

In the motion, Movants suggest that the resolution of a fundamental question involving nothing more than the interpretation of a statutory provision is best left to a court of competent jurisdiction. Motion at 5. They intimate that an agency need not involve itself in such issues, at least in the first instance, unless the question raises regulatory policy concerns or falls within the unique expertise of the agency. They also argue that a rulemaking proceeding is an inadequate means for resolving such a "fundamental" issue, and for that reason such questions should be decided by a court.

Since the issues raised in the motion merely respond to the Office's request for comment on whether the Office should proceed to decide the question concerning the scope of the section 114(a) exemption through a notice and comment proceedings, the Office cannot address the merits of the motion until those parties with an interest in the proceeding have an opportunity to comment. Because the motion sets forth concrete arguments urging the Office defer addressing the scope of the section 114(a) exemption in a notice and comment proceeding in order to allow a court—in this instance, the U.S. District Court for the Southern District of New York—the opportunity to resolve the issue, the Office is making the motion available at this time in order to give all interested parties notice of the motion and an opportunity to comment on the arguments set forth therein.

Copies of the motion are available from the Office of the General Counsel of Copyright at the address listed in this notice. The motion has also been posted