INDUSTRY CIRCULAR

OFFICE OF THE COMMISSIONER OF INTERNAL REVENUE
ALCOHOL AND TOBACCO TAX DIVISION

WASHINGTON 25, D. C.

Industry Circular No. 63-14 July 26, 1963

PAYMENTS FOR DISPLAY SERVICE BY VENDORS TO RETAILERS (INCLUDING STATE LIQUOR COMMISSIONS OPERATING RETAIL LIQUOR STORES).

Proprietors of Distilled Spirits Plants,
Wine Producers, Brewers, Wholesale Dealers,
Importers, and others concerned:

Purpose. The purpose of this Industry Circular is to inform vendors of alcoholic beverages that payments made to retailers, including State Liquor Control Commissions operating retail liquor stores, for display space or advertising services may result in violations of Section 5(b)(4) of the Federal Alcohol Administration Act (27 U.S.C. 205(b)(4)).

Background. Section 5(b)(4) of the Federal Alcohol Administration Act prohibits, under the jurisdictional limitations set forth, producers, importers, or wholesalers of alcoholic beverages from inducing retailers to purchase products sold by them to the exclusion of products sold by others in interstate or foreign commerce by paying or crediting the retailers for any advertising, display or distribution service. Although this prohibition is not applicable to any act done by an agency of a State or political subdivision thereof, it does apply to the acts of industry members in their relationships with retailers, including state liquor monopolies. (See Revenue Ruling 56-628, C.B. 1956-2, 1055, and Revenue Ruling 58-136, C.B. 1958-1, 612.)

General Comment. Although it is impossible to ascertain in advance whether the proscribed elements of inducement and exclusion will result from the rental of advertising display space in all instances, the payment for the service, present in all cases, constitutes the preliminary and one of the basic elements of the offense and it would appear obvious that the purpose of purchasing the display service is to increase sales of the particular brands displayed and thereby to induce purchases by the retailer or liquor monopoly.

Conclusion. Industry members are hereby advised of the Service's views in this regard so that if they are engaging in or contemplate engaging in the practices described, they may have an opportunity to govern their actions accordingly.

Inquiries. Correspondence in regard to this Industry Circular should refer to its number and be addressed to the Director, Alcohol and Tobacco Tax Division (Attention: CP:AT:B), Washington 25, D. C.

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