



INDUSTRY CIRCULAR

DEPARTMENT OF
THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

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PARTICIPATION BY INDUSTRY MEMBERS IN RETAILER ASSOCIATIONS AND TRADE-BUYER EMPLOYEE ASSOCIATION ACTIVITIES

Proprietors of Distilled Spirits Plants, Bonded Wine Cellars,
Taxpaid Wine Bottling Houses; Brewers, Importers, Whole-
sale Malt Liquor Dealers, Wholesale Liquor Dealers and
Others Concerned:

Purpose. This circular is to advise industry members
that ATF Ruling 76-23 will be published in the November issue
of the ATF Bulletin. The ruling supersedes Revenue Rulings
54-130 and 54-391 and reads substantially as follows:

As a result of numerous inquiries, the Bureau
of Alcohol, Tobacco and Firearms recognizes the
need to restate its position concerning participa-
tion by producers, importers, or wholesalers of
alcoholic beverages in the activities of retailer
associations and trade-buyer employee associations.
In this regard, several retail associations have
requested the Bureau to comment on their solicita-
tion of support from such industry members in
connection with advertising in trade publications,
dues collection, and participation in association
conventions, expositions, trade shows, etc.

In general, sections 5(b) and (c) of the
Federal Alcohol Administration Act make it unlaw-
ful for any producer, bottler, importer, or whole-
saler of alcoholic beverages, directly or indirectly
or through an affiliate, to induce any retailer
to purchase alcoholic beverages from him to the
exclusion, in whole or in part, of any such products
sold or offered for sale by other persons in
interstate or foreign commerce by means of "Tied
house" or "Commercial bribery." The provisions of
section 5(c) of the Act also make such practices
unlawful when engaged in with wholesalers (trade
buyers).

Held, in view of the fact that the benefits resulting from payments, gifts, or services rendered by producers, importers, or wholesalers to retailer groups or associations or trade-buyer employee associations flow to the individual members thereof, the Bureau holds that sections 5(b) and (c) of the Federal Alcohol Administration Act apply not only to transactions involving individual retailers but also to these practices when directed toward groups or associations of retailers or trade-buyer employees. Accordingly, when payments, gifts, or services so rendered result in alcoholic beverages being purchased from the participating industry member to the exclusion, in whole or part, of any such products sold or offered for sale by other persons in interstate or foreign commerce, a violation of the Act would ensue. The following activities, among others, may result in violations as discussed above:

- (1) Contributions made by producers, importers, or wholesalers for advertisements in publications controlled or sponsored by groups or associations of retailers, or payments or gratuities tendered by such producers, importers, or wholesalers to groups or associations of trade-buyer employees.
- (2) Collection of dues by members of a wholesale liquor dealers' association from retailers on behalf of a retail liquor dealers' association.
- (3) Payments, contributions, or gratuities made by industry members to associations of retail dealers to underwrite convention, exposition, or trade show activities, such as:
 - (a) Rental of display booth space through the association.
 - (b) Purchase of tickets and/or payment of registration fees at excessive

or discriminatory rates or in excessive numbers.

- (c) Cash donations.
- (d) Subsidizing cost of publications.
- (e) Providing alcoholic beverages for association hospitality rooms.
- (f) Paying for or sharing cost of luncheons, dinners, banquets, cocktail parties, dances, entertainment, or other social functions sponsored by the association.

It is not the Bureau's intention to preclude industry members from legitimate participation in activities such as displaying their products, paying registration fees consistent with those paid by all participants, or otherwise participating in retail association or trade-buyer employee association activities. However, any payments, gifts, or services rendered as outlined in paragraphs (1) through (3) above will be considered as proscribed inducements.

Rev. Rul. 54-130, 1954-1 C.B. 338 (Internal Revenue) and Rev. Rul. 54-391, 1954-2 C.B. 579 (Internal Revenue) are hereby superseded.

Inquiries. Inquiries concerning this circular should refer to its number and be addressed to the Assistant Director, Regulatory Enforcement, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226.


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Director