



Impact of the U.S. /EU Wine Agreement on Certificates of Label Approval for Wine Labels with a Semi-Generic Name or Retsina

To: Bonded Wineries, Bonded Wine Cellars, Taxpaid Wine Bottling Houses, Importers, and Others Concerned.

Purpose

This circular:

- Explains the intended change regarding who may use semi-generic names and Retsina on wine labels;
- Explains the expected conditions under which semi-generic names and Retsina may be used on non-EU wine labels;
- Provides guidance on how to submit applications for certificate of label approval (COLA) for wine labels that contain semi-generic names and Retsina; and
- Explains the qualification that appears on your COLA for wine labels with a semi-generic name or Retsina issued on or after March 10, 2006.

Summary

Following several years of negotiations, the United States and the European Union (EU) signed an agreement on trade in wine between the parties (“the Agreement”) on March 10, 2006. The Agreement addresses a wide range of issues regarding the production, labeling, and import requirements for wine that help to establish predictable conditions for bilateral wine trade. Most significantly for U.S. wine exporters, the Agreement replaces the temporary, short-term derogations the EU has been renewing since 1983 to allow the importation of U.S. wine made using practices not recognized by EU regulations. The Agreement also addresses semi-generic names of origin and the class designation Retsina when they are used on non-EU wine, that is, U.S. wine and wine from other non-EU countries that is sold in the U.S. You may view the full text of the Agreement via the [TTB Web site](#).

Note: As of the date of this circular, the EU is comprised of 25 member States. They are:

Austria	Latvia
Belgium	Lithuania
Cyprus	Luxembourg
Czech Republic	Malta
Denmark	Poland
Estonia	Portugal
Finland	Slovak Republic
France	Slovenia
Germany	Spain
Greece	Sweden
Hungary	the Netherlands
Ireland	United Kingdom
Italy	

Semi-Generic Names

The Internal Revenue Code of 1986 (IRC) at 26 U.S.C. 5388(c) defines each semi-generic name as a name of geographic significance that is also a designation of class and type for wine. The IRC further states that a semi-generic name may be used to designate wine of an origin other than that indicated by its name only if there appears, in direct conjunction with the designation, an appropriate appellation of origin disclosing the true place of origin and the wine so designated conforms to the standard of identity. The semi-generic names and the place of origin indicated by each name are:

Burgundy (France)	Malaga (Spain)
Chablis (France)	Marsala (Italy)
Champagne (France)	Moselle (France)
Chianti (Italy)	Port (Portugal)
Claret (France)	Rhine (Germany)
Haut Sauterne (France)	Sauterne (France)
Hock (Germany)	Sherry (Spain)
Madeira (Portugal)	Tokay (Hungary)

Note: Angelica is a semi-generic name for wine of U.S. origin; however, the Agreement does not affect its use, and it is not subject to any of the information in this circular.

Retsina

Retsina is a class of wine and is not a semi-generic name; however, under the terms of the Agreement, it is treated the same as the semi-generic names. Its origin is Greece.

Background

In the Agreement, the U.S. made a commitment to seek to change the legal status of the semi-generic names and of Retsina to restrict their use solely to wines originating in the applicable EU member state, with certain exceptions. Because the IRC specifically defines semi-generic names, this law must be changed in order to restrict the usage of the names to wines originating in the EU. Assuming the law is so changed, the Agreement contains an exception to this rule. We refer to this exception as the “grandfather” provision. Under the “grandfather” provision, any person or his or her successor in interest may continue to use a semi-generic name or Retsina on a label of a wine not originating in the EU, provided the semi-generic name or Retsina is only used on labels for wine bearing the same brand name, or the brand name and the fanciful name, if any, that appear on a COLA that was issued prior to March 10, 2006.

Note: As of the publication date of this circular, the IRC has not yet been changed. The Alcohol and Tobacco Tax and Trade Bureau (TTB) will update this circular to reflect any relevant changes made to the IRC by statute.

Example

In order to further your understanding of this issue we offer the following scenario. In this example it is assumed that:

- The wine conforms to the standard of identity for Sherry, and
- The law has been changed to conform to our commitment in the Agreement.

Company A produces “Smith Elegance California Cream Sherry.” On the label and corresponding COLA, the brand name is “Smith,” the fanciful name is “Elegance,” “Sherry” is the class and type designation and “California” is the labeled appellation of origin. (Sherry that is not from Spain must be labeled with an appellation of origin.)

- Under the “grandfather” provision, Company A may continue to use the semi-generic name “Sherry” on labels, provided they do not change the brand name or fanciful name as they appear on a COLA that was issued before March 10, 2006.

However:

- If Company A changes the brand name from “Smith” to “Jones,” the use of the semi-generic name “Sherry” is not “grandfathered” and is not permitted.
- If Company A continues to use the brand name “Smith” but changes the fanciful name from “Elegance” to “Robust,” the use of the semi-generic name “Sherry” is not “grandfathered” and is not permitted.
- If Company A continues to use the brand name “Smith” and the fanciful name “Elegance” and changes the appellation of origin from “California” to “Napa

Valley,” the use of the semi-generic name “Sherry” is “grandfathered” and is permitted.

- If Company A continues to use the brand name “Smith” and the fanciful name “Elegance” and deletes “Cream,” the use of the semi-generic name “Sherry” is “grandfathered” and is permitted.
- If Company A sells the rights to *Smith Elegance California Cream Sherry* to Company B, all the same rights and restrictions apply to Company B or any future owner of the brand.

Note: It is sometimes difficult to identify the brand name and the fanciful name by simply viewing the label. If there is any question of eligibility for the “grandfather” provision, we will rely on the information that appears in the “Brand Name” and “Fanciful Name” fields on the COLA that was approved before March 10, 2006.

COLAs with Semi-Generic Names or Retsina Submitted On or After March 10, 2006.

In order to facilitate the review of COLAs for wine labels that contain semi-generic names or Retsina and for the U.S. to uphold its commitments in the Agreement, we instituted the following procedures and we ask for your cooperation. Providing the requested information assists us in processing your application in the timeliest fashion. Failure to provide the requested information may result in your application being rejected or returned for correction.

- If your COLA is for a “new” use of a semi-generic name or Retsina, that is, no COLA was issued before March 10, 2006, for this semi-generic name or Retsina that reflects the same brand name or brand name and fanciful name, if any, please attach a note to your application stating “This application is for a new use of the semi-generic name (specify name) or Retsina” (as applicable).

Note: Pending any change to the law, TTB will continue to approve “new” uses of the semi-generic names and Retsina. Please keep in mind that in order for the U.S. to meet its obligations in the Agreement, the Government must seek to change the law to limit the use of these names on non-EU wine to those brands that were in existence before March 10, 2006.

- If your COLA is for a “grandfathered” brand of semi-generic wine or Retsina, that is, there is a COLA issued before March 10, 2006, with the same semi-generic name or Retsina and the same brand name or brand name and fanciful name, if any, please include with your COLA application a copy of either the COLA that was issued before March 10, 2006, or a COLA with a qualification that confirms that it is for a “grandfathered” brand. We recognize that the COLA submitted in support of your application may not have been issued to your company. For example, if Company B purchased rights to Company A’s “grandfathered” brand

name, Company B may submit a copy of Company A's COLA to support its application.

Qualifications on COLAs

In order to provide you with guidance and information about your labels, we apply a qualification to COLAs with semi-generic names and Retsina issued on or after March 10, 2006. We desire to give applicants for "new" uses, that is, for brands for which no COLA was issued prior to March 10, 2006, advance notice that the U.S. Government is committed to seeking a change in the law regarding the use of these names that may affect the labels on the COLA. Qualifying COLAs for "grandfathered" brands helps to streamline the review of future COLA submissions for these brands.

- COLAs for "new" uses of the semi-generic names or Retsina are qualified:

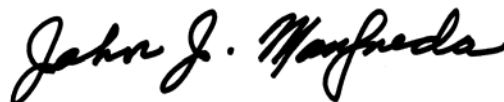
"As per the Agreement Between the U.S. and EU on Trade in Wine, the U.S. is seeking to change 26 U.S.C. 5388(c) regarding the use of semi-generic names and Retsina to limit their use to wine solely from the applicable EU member country unless used on a COLA before March 10, 2006. If enacted, this change will result in this certificate being revoked by operation of law (27 CFR 13.51)."

- COLAs for "grandfathered" brands that use a semi-generic name or Retsina are qualified:

"Approved under the "grandfather" provision of the Agreement Between the U.S. and the EU on Trade in Wine."

Questions

If you have questions concerning this circular, please contact the Advertising, Labeling and Formulation Division (ALFD) at 1-866-927-ALFD (2533) or alfd@ttb.gov.



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