
29 C.F.R. § 779.263

Excise taxes not at the retail level.

There are also a wide variety of taxes levied at the manufacturer's or distributor's level and not at the retail level. It should be noted, however, that the circumstances surrounding the levying and collection of taxes must be carefully considered. The facts concerning the levying and collection of Federal excise taxes on alcoholic beverages and tobacco reflect that such taxes are upon the manufacture of these products and that they are neither levied nor collected at the retail level and thus are not excludable. However, in some cases the circumstances may reflect that despite the fact that such taxes may be levied upon the manufacturer or distributor, nevertheless they may be, in practical operation, taxes at the retail level and may be so regarded for the purpose of this provision.

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