

Sec.
5068. Cross reference.

Editorial Notes

PRIOR PROVISIONS

A prior subpart E, comprising sections 5061 to 5065, related to general provisions, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

2020—Pub. L. 116-260, div. EE, title I, §108(b), Dec. 27, 2020, 134 Stat. 3049, added item 5067 and redesignated former item 5067 as 5068.

1978—Pub. L. 95-423, §1(b), Oct. 6, 1978, 92 Stat. 936, substituted “Losses resulting from disaster, vandalism, or malicious mischief” for “Losses caused by disaster” in item 5064.

1971—Pub. L. 91-659, §3(b), Jan. 8, 1971, 84 Stat. 1966, added item 5066 and redesignated former item 5066 as 5067.

1965—Pub. L. 89-44, title V, §501(e), June 21, 1965, 79 Stat. 150, struck out item 5063 “Floor stocks tax refunds on distilled spirits, wines, cordials, and beer”.

§ 5061. Method of collecting tax

(a) Collection by return

The taxes on distilled spirits, wines, and beer shall be collected on the basis of a return. The Secretary shall, by regulation, prescribe the period or event for which such return shall be filed, the time for filing such return, the information to be shown in such return, and the time for payment of such tax.

(b) Exceptions

Notwithstanding the provisions of subsection (a), any taxes imposed on, or amounts to be paid or collected in respect of, distilled spirits, wines, and beer under—

- (1) section 5001(a)(4), (5), or (6),
- (2) section 5006(c) or (d),
- (3) section 5041(f),
- (4) section 5043(a)(3),
- (5) section 5054(a)(3) or (4), or
- (6) section 5505(a),

shall be immediately due and payable at the time provided by such provisions (or if no specific time for payment is provided, at the time the event referred to in such provision occurs). Such taxes and amounts shall be assessed and collected by the Secretary on the basis of the information available to him in the same manner as taxes payable by return but with respect to which no return has been filed.

(c) Import duties

The internal revenue taxes imposed by this part shall be in addition to any import duties unless such duties are specifically designated as being in lieu of internal revenue tax.

(d) Time for collecting tax on distilled spirits, wines, and beer

(1) In general

Except as otherwise provided in this subsection, in the case of distilled spirits, wines, and beer to which this part applies (other than subsection (b) of this section) which are withdrawn under bond for deferred payment of tax, the last day for payment of such tax shall be the 14th day after the last day of the semi-

monthly period during which the withdrawal occurs.

(2) Imported articles

In the case of distilled spirits, wines, and beer which are imported into the United States (other than in bulk containers)—

(A) In general

The last day for payment of tax shall be the 14th day after the last day of the semi-monthly period during which the article is entered into the customs territory of the United States.

(B) Special rule for entry for warehousing

Except as provided in subparagraph (D), in the case of an entry for warehousing, the last day for payment of tax shall not be later than the 14th day after the last day of the semimonthly period during which the article is removed from the 1st such warehouse.

(C) Foreign trade zones

Except as provided in subparagraph (D) and in regulations prescribed by the Secretary, articles brought into a foreign trade zone shall, notwithstanding any other provision of law, be treated for purposes of this subsection as if such zone were a single customs warehouse.

(D) Exception for articles destined for export

Subparagraphs (B) and (C) shall not apply to any article which is shown to the satisfaction of the Secretary to be destined for export.

(3) Distilled spirits, wines, and beer brought into the United States from Puerto Rico

In the case of distilled spirits, wines, and beer which are brought into the United States (other than in bulk containers) from Puerto Rico, the last day for payment of tax shall be the 14th day after the last day of the semi-monthly period during which the article is brought into the United States.

(4) Taxpayers liable for taxes of not more than \$50,000

(A) In general

(i) More than \$1,000 and not more than \$50,000 in taxes

Except as provided in clause (ii), in the case of any taxpayer who reasonably expects to be liable for not more than \$50,000 in taxes imposed with respect to distilled spirits, wines, and beer under subparts A, C, and D and section 7652 for the calendar year and who was liable for not more than \$50,000 in such taxes in the preceding calendar year, the last day for the payment of tax on withdrawals, removals, and entries (and articles brought into the United States from Puerto Rico) shall be the 14th day after the last day of the calendar quarter during which the action giving rise to the imposition of such tax occurs.

(ii) Not more than \$1,000 in taxes

In the case of any taxpayer who reasonably expects to be liable for not more than \$1,000 in taxes imposed with respect to dis-

tilled spirits, wines, and beer under subparts A, C, and D and section 7652 for the calendar year and who was liable for not more than \$1,000 in such taxes in the preceding calendar year, the last day for the payment of tax on withdrawals, removals, and entries (and articles brought into the United States from Puerto Rico) shall be the 14th day after the last day of the calendar year.

(B) No application after limit exceeded

(i) Exceeds \$50,000 limit

Subparagraph (A)(i) shall not apply to any taxpayer for any portion of the calendar year following the first date on which the aggregate amount of tax due under subparts A, C, and D and section 7652 from such taxpayer during such calendar year exceeds \$50,000, and any tax under such subparts which has not been paid on such date shall be due on the 14th day after the last day of the semimonthly period in which such date occurs.

(ii) Exceeds \$1,000 limit

Subparagraph (A)(ii) shall not apply to any taxpayer for any portion of the calendar year following the first date on which the aggregate amount of tax due under subparts A, C, and D and section 7652 from such taxpayer during such calendar year exceeds \$1,000, and any tax under such subparts which has not been paid on such date shall be due on the 14th day after the last day of the calendar quarter in which such date occurs.

(C) Calendar quarter

For purposes of this paragraph, the term “calendar quarter” means the three-month period ending on March 31, June 30, September 30, or December 31.

(5) Special rule for tax due in September

(A) In general

Notwithstanding the preceding provisions of this subsection, the taxes on distilled spirits, wines, and beer for the period beginning on September 16 and ending on September 26 shall be paid not later than September 29.

(B) Safe harbor

The requirement of subparagraph (A) shall be treated as met if the amount paid not later than September 29 is not less than $\frac{11}{15}$ of the taxes on distilled spirits, wines, and beer for the period beginning on September 1 and ending on September 15.

(C) Taxpayers not required to use electronic funds transfer

In the case of payments not required to be made by electronic funds transfer, subparagraphs (A) and (B) shall be applied by substituting “September 25” for “September 26”, “September 28” for “September 29”, and “ $\frac{2}{3}$ ” for “ $\frac{11}{15}$ ”.

(6) Special rule where due date falls on Saturday, Sunday, or holiday

Notwithstanding section 7503, if, but for this paragraph, the due date under this subsection

for payment of tax would fall on a Saturday, Sunday, or a legal holiday (within the meaning of section 7503), such due date shall be the immediately preceding day which is not a Saturday, Sunday, or such a holiday (or the immediately following day where the due date described in paragraph (5) falls on a Sunday).

(e) Payment by electronic fund transfer

(1) In general

Any person who in any 12-month period ending December 31, was liable for a gross amount equal to or exceeding \$5,000,000 in taxes imposed on distilled spirits, wines, or beer by sections 5001, 5041, and 5051 (or 7652), respectively, shall pay such taxes during the succeeding calendar year by electronic fund transfer to a Federal Reserve Bank.

(2) Electronic fund transfer

The term “electronic fund transfer” means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account.

(3) Controlled groups

(A) In general

In the case of a controlled group of corporations, all corporations which are component members of such group shall be treated as 1 taxpayer. For purposes of the preceding sentence, the term “controlled group of corporations” has the meaning given to such term by subsection (a) of section 1563, except that “more than 50 percent” shall be substituted for “at least 80 percent” each place it appears in such subsection.

(B) Controlled groups which include non-incorporated persons

Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1335; amended Pub. L. 94-455, title XIX, § 1905(a)(6), (b)(2)(E)(iii), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1819, 1822, 1834; Pub. L. 96-39, title VIII, §§ 804(b), 807(a)(9), July 26, 1979, 93 Stat. 274, 281; Pub. L. 98-369, div. A, title I, § 27(c)(1), July 18, 1984, 98 Stat. 509; Pub. L. 99-509, title VIII, § 8011(b)(1), Oct. 21, 1986, 100 Stat. 1952; Pub. L. 99-514, title XVIII, § 1801(c)(1), Oct. 22, 1986, 100 Stat. 2786; Pub. L. 100-647, title II, § 2003(b)(1)(A), (B), Nov. 10, 1988, 102 Stat. 3598; Pub. L. 101-508, title XI, §§ 11201(b)(3), 11704(a)(21), Nov. 5, 1990, 104 Stat. 1388-416, 1388-519; Pub. L. 103-465, title I, § 136(c)(5), title VII, § 712(b), Dec. 8, 1994, 108 Stat. 4842, 5000; Pub. L. 104-188, title I, § 1702(b)(6), Aug. 20, 1996, 110 Stat. 1869; Pub. L. 109-59, title XI, § 11127(a), (b), Aug. 10, 2005, 119 Stat. 1958, 1959; Pub. L. 114-113, div. Q, title III, § 332(a), Dec. 18, 2015, 129 Stat. 3104.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5061, act Aug. 16, 1954, ch. 736, 68A Stat. 614, consisted of provisions similar to those com-

prising this section, prior to the general revision of this chapter by Pub. L. 85-859.

Provisions similar to those comprising subsec. (d) of this section were contained in former section 5001(c), act Aug. 16, 1954, ch. 736, 68A Stat. 597, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2015—Subsec. (d)(4)(A). Pub. L. 114-113, § 332(a)(1), designated existing provisions as cl. (i), inserted heading, substituted “Except as provided in clause (ii), in the case of” for “In the case of”, struck out “under bond for deferred payment” before “shall be the 14th day”, and added cl. (ii).

Subsec. (d)(4)(B). Pub. L. 114-113, § 332(a)(2), designated existing provisions as cl. (i), inserted heading, substituted “Subparagraph (A)(i)” for “Subparagraph (A)”, and added cl. (ii).

2005—Subsec. (d)(4) to (6). Pub. L. 109-59 added par. (4), redesignated former pars. (4) and (5) as (5) and (6), respectively, and in par. (6) substituted “paragraph (5)” for “paragraph (4)”.

1996—Subsec. (b)(3). Pub. L. 104-188 substituted “section 5041(f),” for “section 5041(e),”.

1994—Subsec. (b)(1). Pub. L. 103-465, § 136(c)(5), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “section 5001(a)(5), (6), or (7),”.

Subsec. (d)(4). Pub. L. 103-465, § 712(b)(1), added par. (4). Former par. (4) redesignated (5).

Subsec. (d)(5). Pub. L. 103-465, § 712(b), redesignated par. (4) as (5), substituted “due date” for “14th day” in heading, and inserted “(or the immediately following day where the due date described in paragraph (4) falls on a Sunday)” before period at end.

1990—Subsec. (b)(3). Pub. L. 101-508, §§ 11201(b)(3), 11704(a)(21), amended par. (3) identically, substituting “section 5041(e)” for “section 5041(d)”.

1988—Subsec. (d)(2)(A), (B), (3). Pub. L. 100-647 substituted “last day of the semimonthly period during” for “date on”.

1986—Subsec. (d). Pub. L. 99-509 amended subsec. (d) generally, substituting provisions relating to time for collecting tax on distilled spirits, wines, and beer, for provisions relating to extension of time for collecting tax on distilled spirits.

Subsec. (e)(3). Pub. L. 99-514 added par. (3).

1984—Subsec. (e). Pub. L. 98-369 added subsec. (e).

1979—Subsec. (a). Pub. L. 96-39, § 807(a)(9)(A), struck out “rectified distilled spirits and wines,” after “distilled spirits, wines,”.

Subsec. (b). Pub. L. 96-39, § 807(a)(9)(B), in provisions preceding par. (1) struck out “rectified distilled spirits and wines” after “spirits, wines,” and redesignated pars. (4) to (7) as (3) to (6), respectively. Former par. (3), which made reference to section 5026(a)(2), was struck out.

Subsec. (d). Pub. L. 96-39, § 804(b), added subsec. (d).

1976—Subsec. (a). Pub. L. 94-455, §§ 1905(a)(6)(A), 1906(b)(13)(A), struck out last sentence providing for continued payment of taxes by stamp until the Secretary shall by regulation provide for collection of the taxes on the basis of a return and struck out “or his delegate” after “Secretary”.

Subsec. (b). Pub. L. 94-455, § 1905(a)(6)(B), substituted the exceptions provisions for discretion method of collection providing that “Whether or not the method of collecting any tax imposed by this part is specifically provided in this part, any such tax may, under regulations prescribed by the Secretary or his delegate, be collected by stamp, coupon, serially-numbered ticket, or the use of tax-stamp machines, or by such other reasonable device or method as may be necessary or helpful in securing collection of the tax.”

Subsec. (c). Pub. L. 94-455, § 1905(a)(6)(C), substituted the import duties provision for provision respecting applicability of other provisions of law and reading “All administrative and penalty provisions of this title, insofar as applicable, shall apply to the collection of any tax which the Secretary or his delegate determines or prescribes shall be collected in any manner provided in this section.”

Subsec. (d). Pub. L. 94-455, § 1905(b)(2)(E)(iii), struck out subsec. (d) which provided cross reference to section 5689 for penalty and forfeiture for tampering with a stamp machine.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title III, § 332(c), Dec. 18, 2015, 129 Stat. 3106, provided that: “The amendments made by this section [amending this section and sections 5173, 5351, 5401, and 5551 of this title] shall apply to any calendar quarters beginning more than 1 year after the date of the enactment of this Act [Dec. 18, 2015].”

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-59, title XI, § 11127(c), Aug. 10, 2005, 119 Stat. 1959, provided that: “The amendments made by this section [amending this section] shall apply with respect to quarterly periods beginning on and after January 1, 2006.”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101-508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104-188, set out as a note under section 38 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 136(c)(5) of Pub. L. 103-465 effective Jan. 1, 1995, see section 136(d) of Pub. L. 103-465, set out as a note under section 5001 of this title.

Pub. L. 103-465, title VII, § 712(e), Dec. 8, 1994, 108 Stat. 5001, provided that: “The amendments made by this section [amending this section and sections 5703 and 6302 of this title] shall take effect on January 1, 1995.”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11201(b)(3) of Pub. L. 101-508 effective Jan. 1, 1991, see section 11201(d) of Pub. L. 101-508, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title II, § 2003(b)(2), Nov. 10, 1988, 102 Stat. 3598, provided that: “The amendments made by paragraph (1) [amending this section and section 5703 of this title] shall take effect as if included in the amendments made by section 8011 of the Omnibus Budget Reconciliation Act of 1986 [Pub. L. 99-509].”

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

Pub. L. 99-509, title VIII, § 8011(c), Oct. 21, 1986, 100 Stat. 1953, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 5054, 5703, and 5704 of this title] shall apply to removals during semimonthly periods ending on or after December 31, 1986.

“(2) IMPORTED ARTICLES, ETC.—Subparagraphs (B) and (C) of section 5703(b)(2) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by this section), paragraphs (2) and (3) of section 5061(d) of such Code (as amended by this section), and the amendments made by subsections (a)(2) and (b)(2) [amending sections 5054 and 5704 of this title] shall apply to articles imported, entered for warehousing, or brought into the United States or a foreign trade zone after December 15, 1986.

“(3) SPECIAL RULE FOR DISTILLED SPIRITS AND TOBACCO FOR SEMIMONTHLY PERIOD ENDING DECEMBER 15, 1986.—With respect to remittances of—

“(A) taxes imposed on distilled spirits by section 5001 or 7652 of such Code, and

“(B) taxes imposed on tobacco products and cigarette papers and tubes by section 5701 or 7652 of such Code,

for the semimonthly period ending December 15, 1986, the last day for payment of such remittances shall be January 14, 1987.

“(4) TREATMENT OF SMOKELESS TOBACCO IN INVENTORY ON JUNE 30, 1986.—The tax imposed by section 5701(e) of the Internal Revenue Code of 1986 shall not apply to any smokeless tobacco which—

“(A) on June 30, 1986, was in the inventory of the manufacturer or importer, and

“(B) on such date was in a form ready for sale.”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxes required to be paid on or after Sept. 30, 1984, see section 27(d)(2) of Pub. L. 98-369, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(a)(6), (b)(2)(E)(iii) of Pub. L. 94-455 effective on first day of first month which begins more than 90 days after Oct. 4, 1976, see section 1905(d) of Pub. L. 94-455, set out as a note under section 5005 of this title.

EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101-1147 and 1171-1177] or title XVIII [§§ 1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

TRANSITIONAL RULES RELATING TO DETERMINATION AND PAYMENT OF TAX

Pub. L. 96-39, title VIII, § 808, July 26, 1979, 93 Stat. 291, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(a) LIABILITY FOR PAYMENT OF TAX.—Except as otherwise provided in this section, the tax on all distilled spirits which have been withdrawn from bond on determination of tax and on which tax has not been paid by the close of December 31, 1979, shall become due on January 1, 1980, and shall be payable in accordance with section 5061 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954].

“(b) TREATMENT OF CONTROLLED STOCK AND BULK WINE.—

“(1) ELECTION WITH RESPECT TO CONTROLLED STOCK.—The proprietor of a distilled spirits plant may elect to convert any distilled spirits or wine which on January 1, 1980, is controlled stock.

“(2) ELECTION WITH RESPECT TO WINE.—The proprietor of a distilled spirits plant may elect to convert any bulk wine which on January 1, 1980, is on the premises of a distilled spirits plant.

“(3) EFFECT OF ELECTION.—If an election under paragraph (1) or (2) is in effect with respect to any controlled stock or wine—

“(A) any distilled spirits, wine, or rectification tax previously paid or determined on such con-

trolled stock or wine shall be abated or (without interest) credited or refunded under such regulations as the Secretary shall prescribe, and

“(B) such controlled stock or wine shall be treated as distilled spirits or wine on which tax has not been paid or determined.

“(4) MAKING OF ELECTIONS.—The elections under this subsection shall be made at such time and in such manner as the Secretary shall by regulations prescribe.

“(c) TAXPAID STOCK.—

“(1) TAXPAID STOCK MAY REMAIN ON BONDED PREMISES DURING 1980.—Section 5612(a) of the Internal Revenue Code of 1986 (relating to forfeiture of taxpaid distilled spirits remaining on bonded premises) shall not apply during 1980.

“(2) SEPARATION OF TAXPAID STOCK.—All distilled spirits and wine on which tax has been paid and which are on the bonded premises of a distilled spirits plant shall be physically separated from other distilled spirits and wine. Such separation shall be by the use of separate tanks, rooms, or buildings, or by partitioning, or by such other methods as the Secretary finds will distinguish such distilled spirits and wine from other distilled spirits and wine on the bonded premises of the distilled spirits plant.

“(d) RETURN OF DISTILLED SPIRITS PRODUCTS CONTAINING TAXPAID WINE.—With respect to distilled spirits returned to the bonded premises of distilled spirits plants during 1980, section 5008(c)(1) of the Internal Revenue Code of 1986 (relating to refunds for distilled spirits returned to bonded premises) shall be treated as including a reference to section 5041 of such Code.

“(e) RETURN OF DISTILLED SPIRITS PRODUCTS CONTAINING OTHER ALCOHOLIC INGREDIENTS.—With respect to distilled spirits to which alcoholic ingredients other than distilled spirits have been added and which have been withdrawn from a distilled spirits plant before January 1, 1980, section 5215(a) of the Internal Revenue Code of 1986 shall apply only if such spirits are returned to the distilled spirits plant from which withdrawn.

“(f) SECRETARY DEFINED.—For purposes of this section, the term ‘Secretary’ means the Secretary of the Treasury or his delegate.”

§ 5062. Refund and drawback in case of exportation

(a) Refund

Under such regulations as the Secretary may prescribe, the amount of any internal revenue tax erroneously or illegally collected in respect to exported articles may be refunded to the exporter of the article, instead of to the manufacturer, if the manufacturer waives any claim for the amount so to be refunded.

(b) Drawback

On the exportation of distilled spirits or wines manufactured, produced, bottled, or packaged in casks or other bulk containers in the United States on which an internal revenue tax has been paid or determined, and which are contained in any cask or other bulk container, or in bottles packed in cases or other containers, there shall be allowed, under regulations prescribed by the Secretary, a drawback equal in amount to the tax found to have been paid or determined on such distilled spirits or wines. In the case of distilled spirits, the preceding sentence shall not apply unless the claim for drawback is filed by the bottler or packager of the spirits and unless such spirits have been marked, especially for export, under regulations prescribed by the Secretary. The Secretary is authorized to prescribe regulations governing the determination and payment or crediting of