Public Law 95-423
95th Congress

An Act

To amend section 5064 of the Internal Revenue Code of 1954 to provide for refund of tax on distilled spirits, wines, rectified products, and beer lost or rendered unmarketable due to fire, flood, casualty, or other disaster, or to breakage, destruction, or other damage (excluding theft) resulting from vandalism or malicious mischief while held for sale.

Oct. 6, 1978
[H.R. 1920]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Taxes.
Alcoholic beverages, excise tax refund.

SECTION 1. REFUND OF TAX ON ALCOHOLIC BEVERAGE LOSSES RESULTING FROM DISASTER, VANDALISM, OR MALICIOUS MISCHIEF.

(a) IN GENERAL.—So much of section 5064 of the Internal Revenue Code of 1954 (relating to losses caused by disaster) as precedes subsection (c) is amended to read as follows:

26 USC 5064.

"SEC. 5064. LOSSES RESULTING FROM DISASTER, VANDALISM, OR MALICIOUS MISCHIEF.

"(a) PAYMENTS.—The Secretary, under such regulations as he may prescribe, shall pay (without interest) an amount equal to the amount of the internal revenue taxes paid or determined and customs duties paid on distilled spirits, wines, rectified products, and beer previously withdrawn, which were lost, rendered unmarketable, or condemned by a duly authorized official by reason of—

Regulations.

"(1) fire, flood, casualty, or other disaster, or

"(2) breakage, destruction, or other damage (but not including theft) resulting from vandalism or malicious mischief,

if such disaster or damage occurred in the United States and if such distilled spirits, wines, rectified products, or beer were held and intended for sale at the time of such disaster or other damage. The payments provided for in this section shall be made to the person holding such distilled spirits, wines, rectified products, or beer for sale at the time of such disaster or other damage.

"(b) CLAIMS.—

"(1) PERIOD FOR MAKING CLAIM; PROOF.—No claim shall be allowed under this section unless—

"(A) filed within 6 months after the date on which such distilled spirits, wines, rectified products, or beer were lost, rendered unmarketable, or condemned by a duly authorized official, and

"(B) the claimant furnishes proof satisfactory to the Secretary that the claimant—

"(i) was not indemnified by any valid claim of insurance or otherwise in respect of the tax, or tax and duty, on the distilled spirits, wines, rectified products, or beer covered by the claim; and

"(ii) is entitled to payment under this section.

"(2) MINIMUM CLAIM.—Except as provided in paragraph (3)(A), no claim of less than $250 shall be allowed under this section with respect to any disaster or other damage (as the case may be).

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42 USC 5121 note.

"(3) SPECIAL RULES FOR MAJOR DISASTERS.—If the President has determined under the Disaster Relief Act of 1974 that a 'major disaster' (as defined in such Act) has occurred in any part of the United States, and if the disaster referred to in subsection (a)(1) occurs in such part of the United States by reason of such major disaster, then—

"(A) paragraph (2) shall not apply, and

"(B) the filing period set forth in paragraph (1)(A) shall not expire before the day which is 6 months after the date on which the President makes the determination that such major disaster has occurred.

"(4) REGULATIONS.—Claims under this section shall be filed under such regulations as the Secretary shall prescribe.".

(b) CLERICAL AMENDMENT.—The table of sections for subpart E of part I of subchapter A of chapter 51 of such Code is amended by striking out the item relating to section 5064 and inserting in lieu thereof the following:

"Sec. 5064. Losses resulting from disaster, vandalism, or malicious mischief.".

26 USC 5064 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disasters (or other damage) occurring on or after the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act.

Approved October 6, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1038 (Comm. on Ways and Means).
SENATE REPORT No. 95-1112 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 124 (1978):
May 8, considered and passed House.
Aug. 25, considered and passed Senate, amended.
Sept. 19, House concurred in Senate amendment with amendments.
Sept. 25, Senate concurred in House amendments.