this section [enacting this section] shall apply to services performed on or after July 1, 2010.''

CHAPTER 50—FOREIGN PROCUREMENT

Sec.
5000C. Imposition of tax on certain foreign procurement.

§ 5000C. Imposition of tax on certain foreign procurement

(a) Imposition of tax

There is hereby imposed on any foreign person that receives a specified Federal procurement payment a tax equal to 2 percent of the amount of such specified Federal procurement payment.

(b) Specified Federal procurement payment

For purposes of this section, the term ''specified Federal procurement payment'' means any payment made pursuant to a contract with the Government of the United States for—

(1) the provision of goods, if such goods are manufactured or produced in any country which is not a party to an international procurement agreement with the United States, or

(2) the provision of services, if such services are provided in any country which is not a party to an international procurement agreement with the United States.

(c) Foreign person

For purposes of this section, the term ''foreign person'' means any person other than a United States person.

(d) Administrative provisions

(1) Withholding

The amount deducted and withheld under chapter 3 shall be increased by the amount of tax imposed by this section on such payment.

(2) Other administrative provisions

For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

(Added Pub. L. 111–347, title III, § 301(a)(1), Jan. 2, 2011, 124 Stat. 3666.)

EFFECTIVE DATE

Pub. L. 111–347, title III, § 301(a)(3), Jan. 2, 2011, 124 Stat. 3666, provided that: ''The amendments made by this subsection [enacting this section] shall apply to payments received pursuant to contracts entered into on and after the date of the enactment of this Act [Jan. 2, 2011].''

PROHIBITION ON REIMBURSEMENT OF FEES

Pub. L. 111–347, title III, § 301(b), Jan. 2, 2011, 124 Stat. 3666, provided that:

''(1) IN GENERAL.—The head of each executive agency shall take any and all measures necessary to ensure that no funds are disbursed to any foreign contractor in order to reimburse the tax imposed under section 5000C of the Internal Revenue Code of 1986.

''(2) ANNUAL REVIEW.—The Administrator for Federal Procurement Policy shall annually review the contracting activities of each executive agency to monitor compliance with the requirements of paragraph (1).

''(3) EXECUTIVE AGENCY.—For purposes of this subsection, the term 'executive agency' has the meaning given the term in section 4 of the Office of Federal Procurement Policy Act ([former] 41 U.S.C. 403) [see 41 U.S.C. 133].''

APPLICATION

Pub. L. 111–347, title III, § 301(c), Jan. 2, 2011, 124 Stat. 3666, provided that: ''This section [enacting this section and provisions set out as notes under this section] and the amendments made by this section shall be applied in a manner consistent with United States obligations under international agreements.''

Subtitle E—Alcohol, Tobacco, and Certain Other Excise Taxes

Chapter		Sec.[1]
51.	Distilled spirits, wines, and beer	5001
52.	Tobacco products and cigarette papers and tubes	5701
53.	Machine guns and certain other firearms[2]	5801
54.	Greenmail	5881
55.	Structured settlement factoring transactions	5891

AMENDMENTS

2002—Pub. L. 107–134, title I, § 115(b), Jan. 23, 2002, 115 Stat. 2438, added item relating to chapter 55.

1997—Pub. L. 105–33, title IX, § 9302(g)(3)(D), Aug. 5, 1997, 111 Stat. 673, added item relating to chapter 52 and struck out former item relating to chapter 52 ''Cigars, cigarettes, smokeless tobacco, pipe tobacco, and cigarette papers and tubes''.

1988—Pub. L. 100–647, title V, § 5061(c)(4), Nov. 10, 1988, 102 Stat. 3680, substituted ''Cigars, cigarettes, smokeless tobacco, pipe tobacco, and cigarette papers and tubes'' for ''Tobacco, cigars, cigarettes, smokeless tobacco, and cigarette papers and tubes'' in item relating to chapter 52.

Pub. L. 100–647, title I, § 1018(u)(16), Nov. 10, 1988, 102 Stat. 3590, inserted ''smokeless tobacco,'' after ''cigarettes,'' in item relating to chapter 52.

1987—Pub. L. 100–203, title X, § 10228(c), Dec. 22, 1987, 101 Stat. 1330–418, added item relating to chapter 54.

CHAPTER 51—DISTILLED SPIRITS, WINES, AND BEER

Subchapter		Sec.[1]
A.	Gallonage and occupational taxes	5001
B.	Qualification requirements for distilled spirits plants	5171
C.	Operation of distilled spirits plants	5201
D.	Industrial use of distilled spirits	5271
E.	General provisions relating to distilled spirits	5291
F.	Bonded and taxpaid wine premises	5351
G.	Breweries	5401
H.	Miscellaneous plants and warehouses	5501
I.	Miscellaneous general provisions	5551
J.	Penalties, seizures, and forfeitures relating to liquors	5601

PRIOR PROVISIONS

The provisions of a prior chapter 51, Distilled Spirits, Wines, and Beer, were set out as:

Subchapter A, Gallonage and occupational taxes, comprising sections 5001 to 5012, 5021 to 5028, 5041 to 5045, 5051 to 5057, 5061 to 5065, 5081 to 5084, 5091 to 5093, 5101 to 5106, 5111 to 5116, 5121 to 5124, 5131 to 5134, and 5141 to 5149.

Subchapter B, Distilleries, comprising sections 5171 to 5180, 5191 to 5197, and 5211 to 5217.

Subchapter C, Internal Revenue bonded warehouses, comprising sections 5231 to 5233 and 5241 to 5252.

Subchapter D, Rectifying plants, comprising sections 5271 to 5275 and 5281 to 5285.

[1] Section numbers editorially supplied.

[2] Chapter heading amended by Pub. L. 90–618 without corresponding amendment of analysis.

[1] Section numbers editorially supplied.

Subchapter E, Industrial alcohol plants, bonded warehouses, denaturing plants, and denaturation, comprising sections 5301 to 5320 and 5331 to 5334.
Subchapter F, Bonded and taxpaid wine premises, comprising sections 5351 to 5357, 5361 to 5373, 5381 to 5388, 5391, and 5392.
Subchapter G, Breweries, comprising sections 5401 to 5403 and 5411 to 5416.
Subchapter H, Miscellaneous plants and warehouses, comprising sections 5501, 5502, 5511, 5512, and 5521 to 5523.
Subchapter I, Miscellaneous general provisions, comprising sections 5551 to 5557.
Subchapter J, Penalties, seizures, and forfeitures relating to liquors, comprising sections 5601 to 5650, 5661 to 5663, 5671 to 5676, 5681 to 5690, and 5691 to 5693.

Subchapter A—Gallonage and Occupational Taxes

Part
I. Gallonage taxes.
II. Miscellaneous provisions.

AMENDMENTS

2005—Pub. L. 109–59, title XI, § 11125(b)(1)(B), Aug. 10, 2005, 119 Stat. 1953, substituted ''Miscellaneous provisions'' for ''Occupational tax'' in item for part II.

PART I—GALLONAGE TAXES

Subpart
A. Distilled spirits.
[B. Repealed.]
C. Wines.
D. Beer.
E. General provisions.

AMENDMENTS

1979—Pub. L. 96–39, title VIII, § 807(b)(1), July 26, 1979, 93 Stat. 290, struck out item relating to subpart B ''Rectification''.

SUBPART A—DISTILLED SPIRITS

Sec.
5001. Imposition, rate, and attachment of tax.
5002. Definitions.
5003. Cross references to exemptions, etc.
5004. Lien for tax.
5005. Persons liable for tax.
5006. Determination of tax.
5007. Collection of tax on distilled spirits.
5008. Abatement, remission, refund, and allowance for loss or destruction of distilled spirits.
[5009. Repealed.]
5010. Credit for wine content and for flavors content.
5011. Income tax credit for average cost of carrying excise tax.

PRIOR PROVISIONS

A prior subpart A, comprising sections 5001 to 5012, related to tax on distilled spirits, prior to the general revision of this chapter by Pub. L. 85–859, title II, 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

2005—Pub. L. 109–59, title XI, § 11126(c), Aug. 10, 2005, 119 Stat. 1958, added item 5011.
1980—Pub. L. 96–598, § 6(b), Dec. 24, 1980, 94 Stat. 3489, added item 5010.
1979—Pub. L. 96–39, title VIII, § 807(b)(2), July 26, 1979, 93 Stat. 290, struck out item 5009 ''Drawback''.

§ 5001. Imposition, rate, and attachment of tax

(a) Rate of tax

(1) General

There is hereby imposed on all distilled spirits produced in or imported into the United States a tax at the rate of $13.50 on each proof gallon and a proportionate tax at the like rate on all fractional parts of a proof gallon.

(2) Products containing distilled spirits

All products of distillation, by whatever name known, which contain distilled spirits, on which the tax imposed by law has not been paid, and any alcoholic ingredient added to such products, shall be considered and taxed as distilled spirits.

(3) Wines containing more than 24 percent alcohol by volume

Wines containing more than 24 percent of alcohol by volume shall be taxed as distilled spirits.

(4) Distilled spirits withdrawn free of tax

Any person who removes, sells, transports, or uses distilled spirits, withdrawn free of tax under section 5214(a) or section 7510, in violation of laws or regulations now or hereafter in force pertaining thereto, and all such distilled spirits shall be subject to all provisions of law relating to distilled spirits subject to tax, including those requiring payment of the tax thereon; and the person so removing, selling, transporting, or using the distilled spirits shall be required to pay such tax.

(5) Denatured distilled spirits or articles

Any person who produces, withdraws, sells, transports, or uses denatured distilled spirits or articles in violation of laws or regulations now or hereafter in force pertaining thereto, and all such denatured distilled spirits or articles shall be subject to all provisions of law pertaining to distilled spirits that are not denatured, including those requiring the payment of tax thereon; and the person so producing, withdrawing, selling, transporting, or using the denatured distilled spirits or articles shall be required to pay such tax.

(6) Fruit-flavor concentrates

If any volatile fruit-flavor concentrate (or any fruit mash or juice from which such concentrate is produced) containing one-half of 1 percent or more of alcohol by volume, which is manufactured free from tax under section 5511, is sold, transported, or used by any person in violation of the provisions of this chapter or regulations promulgated thereunder, such person and such concentrate, mash, or juice shall be subject to all provisions of this chapter pertaining to distilled spirits and wines, including those requiring the payment of tax thereon; and the person so selling, transporting, or using such concentrate, mash, or juice shall be required to pay such tax.

(7) Imported liqueurs and cordials

Imported liqueurs and cordials, or similar compounds, containing distilled spirits, shall be taxed as distilled spirits.

(8) Imported distilled spirits withdrawn for beverage purposes

There is hereby imposed on all imported distilled spirits withdrawn from customs custody under section 5232 without payment of the internal revenue tax, and thereafter withdrawn

from bonded premises for beverage purposes, an additional tax equal to the duty which would have been paid had such spirits been imported for beverage purposes, less the duty previously paid thereon.

(9) Alcoholic compounds from Puerto Rico

Except as provided in section 5314, upon bay rum, or any article containing distilled spirits, brought from Puerto Rico into the United States for consumption or sale there is hereby imposed a tax on the spirits contained therein at the rate imposed on distilled spirits produced in the United States.

(b) Time of attachment on distilled spirits

The tax shall attach to distilled spirits as soon as this substance is in existence as such, whether it be subsequently separated as pure or impure spirits, or be immediately, or at any subsequent time, transferred into any other substance, either in the process of original production or by any subsequent process.

(c) Cross reference

For provisions relating to the tax on shipments to the United States of taxable articles from Puerto Rico and the Virgin Islands, see section 7652.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1314; amended Pub. L. 86–75, § 3(a)(2), (3), June 30, 1959, 73 Stat. 157; Pub. L. 86–564, title II, § 202(a)(4), (5), June 30, 1960, 74 Stat. 290; Pub. L. 87–72, § 3(a)(4), (5), June 30, 1961, 75 Stat. 193; Pub. L. 87–508, § 3(a)(3), (4), June 28, 1962, 76 Stat. 114; Pub. L. 88–52, § 3(a)(4), (5), June 29, 1963, 77 Stat. 72; Pub. L. 88–348, § 2(a)(4), (5), June 30, 1964, 78 Stat. 237; Pub. L. 89–44, title V, § 501(a), June 21, 1965, 79 Stat. 150; Pub. L. 96–39, title VIII, §§ 802, 805(d), July 26, 1979, 93 Stat. 273, 278; Pub. L. 98–369, div. A, title I, § 27(a)(1), July 18, 1984, 98 Stat. 507; Pub. L. 101–508, title XI, § 11201(a)(1), Nov. 5, 1990, 104 Stat. 1388–415; Pub. L. 103–465, title I, § 136(a), Dec. 8, 1994, 108 Stat. 4841.)

PRIOR PROVISIONS

A prior section 5001, acts Aug. 16, 1954, ch. 736, 68A Stat. 595; Mar. 30, 1955, ch. 18, § 3(a)(4), (5), 69 Stat. 14; Mar. 29, 1956, ch. 115, § 3(a)(4), (5), 70 Stat. 66; Mar. 29, 1957, Pub. L. 85–12, § 3(a)(2), (3), 71 Stat. 9; June 30, 1958, Pub. L. 85–475, § 3(a)(2), (3), 72 Stat. 259, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859. See section 5061(d) of this title.

AMENDMENTS

1994—Subsec. (a)(3) to (10). Pub. L. 103–465 redesignated pars. (4) to (10) as (3) to (9), respectively, and struck out former par. (3), ''Imported perfumes containing distilled spirits'', which read as follows: ''There is hereby imposed on all perfumes imported into the United States containing distilled spirits a tax of $13.50 per wine gallon, and a proportionate tax at a like rate on all fractional parts of such wine gallon.''

1990—Subsec. (a)(1), (3). Pub. L. 101–508 substituted ''$13.50'' for ''$12.50''.

1984—Subsec. (a)(1), (3). Pub. L. 98–369 substituted ''$12.50'' for ''$10.50''.

1979—Subsec. (a)(1). Pub. L. 96–39, § 802, struck out ''in bond or'' after ''distilled spirits'' and ''or wine gallon when below proof'' after ''each proof gallon'' and substituted ''a tax'' for ''an internal revenue tax'' and ''proof gallon'' for ''such proof or wine gallon''.

Subsec. (a)(2). Pub. L. 96–39, § 805(d), inserted '', and any alcoholic ingredient added to such products'' after ''has not been paid''.

1965—Subsec. (a)(1). Pub. L. 89–44 struck out last sentence which provided that the rate of tax imposed by par. (1) would be $9 on and after July 1, 1965.

Subsec. (a)(3). Pub. L. 89–44 struck out last sentence which provided that the rate of tax imposed by par. (3) would be $9 on and after July 1, 1965.

1964—Subsec. (a)(1). Pub. L. 88–348 substituted ''July 1, 1965'' for ''July 1, 1964''.

Subsec. (a)(3). Pub. L. 88–348 substituted ''July 1, 1965'' for ''July 1, 1964''.

1963—Subsec. (a)(1). Pub. L. 88–52, § 3(a)(4), substituted ''July 1, 1964'' for ''July 1, 1963''.

Subsec. (a)(3). Pub. L. 88–52, § 3(a)(5), substituted ''July 1, 1964'' for ''July 1, 1963''.

1962—Subsec. (a)(1). Pub. L. 87–508, § 3(a)(3), substituted ''July 1, 1963'' for ''July 1, 1962''.

Subsec. (a)(3). Pub. L. 87–508, § 3(a)(4), substituted ''July 1, 1963'' for ''July 1, 1962''.

1961—Subsec. (a)(1). Pub. L. 87–72, § 3(a)(4), substituted ''July 1, 1962'' for ''July 1, 1961''.

Subsec. (a)(3). Pub. L. 87–72, § 3(a)(5), substituted ''July 1, 1962'' for ''July 1, 1961''.

1960—Subsec. (a)(1). Pub. L. 86–564, § 202(a)(4), substituted ''July 1, 1961'' for ''July 1, 1960''.

Subsec. (a)(3). Pub. L. 86–564, § 202(a)(5), substituted ''July 1, 1961'' for ''July 1, 1960''.

1959—Subsec. (a)(1). Pub. L. 86–75, § 3(a)(2), substituted ''July 1, 1960'' for ''July 1, 1959''.

Subsec. (a)(3). Pub. L. 86–75, § 3(a)(3), substituted ''July 1, 1960'' for ''July 1, 1959''.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 136(d) of Pub. L. 103–465 provided that: ''The amendments made by this section [amending this section and sections 5002, 5005, 5007, 5061, 5131, 5132, 5134, and 7652 of this title] shall take effect on January 1, 1995.''

EFFECTIVE DATE OF 1990 AMENDMENT

Section 11201(d) of Pub. L. 101–508 provided that: ''The amendments made by this section [amending this section and sections 5010, 5041, 5051, and 5061 of this title] shall take effect on January 1, 1991.''

EFFECTIVE DATE OF 1984 AMENDMENT

Section 27(d) of Pub. L. 98–369 provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and section 5010 of this title and enacting provisions set out as a note under this section] shall take effect on October 1, 1985.

''(2) ELECTRONIC TRANSFER PROVISIONS.—The amendments made by subsection (c) [amending sections 5061 and 5703 of this title] shall apply to taxes required to be paid on or after September 30, 1984.''

EFFECTIVE DATE OF 1979 AMENDMENT

Section 810 of title VIII of Pub. L. 96–39 provided that: ''The amendments made by this title [amending this section and sections 5002 to 5008, 5043, 5061, 5064, 5066, 5116, 5171 to 5173, 5175 to 5178, 5180, 5181, 5201 to 5205, 5207, 5211 to 5215, 5221 to 5223, 5231, 5232, 5235, 5241, 5273, 5291, 5301, 5352, 5361 to 5363, 5365, 5381, 5391, 5551, 5601, 5604, 5610, 5612, 5615, 5663, 5681, 5682, and 5691 of this title, repealing sections 5009, 5021 to 5026, 5081 to 5084, 5174, 5233, 5234, 5251, 5252, 5364, and 5521 to 5523 of this title, and enacting provisions set out as notes under sections 1, 5061, 5171, and 5173 of this title] shall take effect on January 1, 1980.''

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–44 applicable on and after July 1, 1965, see section 701(d) of Pub. L. 89–44, set out as a note under section 5701 of this title.

EFFECTIVE DATE

Section 210(a)(1) of Pub. L. 85–859 provided that: ''The amendments made by sections 201 and 205 [amending

this chapter and repealing acts Mar. 3, 1877, 114, 19 Stat. 393, and Oct. 18, 1888, ch. 1194, 25 Stat. 560] shall take effect on July 1, 1959, except that any provision having the effect of a provision contained in such amendments may be made effective at an earlier date by the promulgation of regulations by the Secretary or his delegate to effectuate such provision, in which case the effective date shall be that prescribed in such regulations. The amendments made by paragraphs (17) and (18) of section 204 [amending section 7652 of this title] shall take effect on July 1, 1959. Except as provided in section 206(f), all other provisions of this title [enacting sections 5849, 5854, 5855, and 7608 of this title, amending chapter 52 of this title and sections 5801, 5811, 5814, 5821, 5843, 5848, 5851, 6071, 6207, 6422, 7214, 7272, 7301, 7324 to 7326, 7609, and 7655 of this title, and repealing former section 5854 of this title] shall take effect on the day following the date of the enactment of this Act [Sept. 2, 1958].''

SHORT TITLE

Section 1(a) of Pub. L. 85–859 provided that: ''This Act [see Tables for classification] may be cited as the 'Excise Tax Technical Changes Act of 1958'.''

SAVINGS PROVISION

Section 210(b) of title II of Pub. L. 85–859, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''The amendment of any provision of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] by this title [enacting sections 5849, 5854, 5855, and 7608 of this title, amending this chapter, chapter 52 of this title and sections 5801, 5811, 5814, 5821, 5843, 5848, 5851, 6071, 6207, 6422, 7214, 7272, 7301, 7324 to 7326, 7609, 7652, and 7655 of this title, and enacting provisions set out as notes under this section and sections 5006, 5025, 5064, 5175, 5304, and 5601 of this title] shall not affect any act done or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause before such amendment; but all rights and liabilities under such code prior to such amendment shall continue, and may be enforced in the same manner, as if such amendment had not been made.''

REFERENCES TO OTHER PROVISIONS OF LAW

Section 210(d) of title II of Pub. L. 85–859 provided that: ''For the purpose of applying any provision of this title [see Savings Provision note above] to any occurrence on or after the effective date of such provision, any reference in this title to another provision thereof shall also be deemed to be a reference to the corresponding provision of prior law, when consistent with the purpose of the provision to be applied.''

REPEAL OF ACTS MAR. 3, 1877 AND OCT. 18, 1888

Section 205 of Pub. L. 85–859 repealed acts March 3, 1877, ch. 114, 19 Stat. 393 and Oct. 18, 1888, ch. 1194, 25 Stat. 560, which related to production and warehousing of fruit brandy, and are covered by this chapter. For effective date of repeal, see section 210(a)(1) of Pub. L. 85–859, set out as an Effective Date note above.

FLOOR STOCKS TAXES ON DISTILLED SPIRITS, WINE, AND BEER

Section 11201(e) of Pub. L. 101–508 provided that:

''(1) IMPOSITION OF TAX.—

''(A) IN GENERAL.—In the case of any tax-increased article—

''(i) on which tax was determined under part I of subchapter A of chapter 51 of the Internal Revenue Code of 1986 or section 7652 of such Code before January 1, 1991, and

''(ii) which is held on such date for sale by any person,

there shall be imposed a tax at the applicable rate on each such article.

''(B) APPLICABLE RATE.—For purposes of subparagraph (A), the applicable rate is—

''(i) $1 per proof gallon in the case of distilled spirits,

''(ii) $0.90 per wine gallon in the case of wine described in paragraph (1), (2), (3), or (5) of section 5041(b) of such Code, and

''(iii) $9 per barrel in the case of beer.

In the case of a fraction of a gallon or barrel, the tax imposed by subparagraph (A) shall be the same fraction as the amount of such tax imposed on a whole gallon or barrel.

''(C) TAX-INCREASED ARTICLE.—For purposes of this subsection, the term 'tax-increased article' means distilled spirits, wine described in paragraph (1), (2), (3), or (5) of section 5041(b) of such Code, and beer.

''(2) EXCEPTION FOR SMALL DOMESTIC PRODUCERS.—

''(A) In the case of wine held by the producer thereof on January 1, 1991, if a credit would have been allowable under section 5041(c) of such Code (as added by this section) on such wine had the amendments made by subsection (b) [amending sections 5041 and 5061 of this title] applied to all wine removed during 1990 and had the wine so held been removed for consumption on December 31, 1990, the tax imposed by paragraph (1) on such wine shall be reduced by the credit which would have been so allowable.

''(B) In the case of beer held by the producer thereof on January 1, 1991, if the rate of the tax imposed by section 5051 of such Code would have been determined under subsection (a)(2) thereof had the beer so held been removed for consumption on December 31, 1990, the tax imposed by paragraph (1) on such beer shall not apply.

''(C) For purposes of this paragraph, an article shall not be treated as held by the producer if title thereto had at any time been transferred to any other person.

''(3) EXCEPTION FOR CERTAIN SMALL WHOLESALE OR RETAIL DEALERS.—No tax shall be imposed by paragraph (1) on tax- increased articles held on January 1, 1991, by any dealer if—

''(A) the aggregate liquid volume of tax-increased articles held by such dealer on such date does not exceed 500 wine gallons, and

''(B) such dealer submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

''(4) CREDIT AGAINST TAX.—Each dealer shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to—

''(A) $240 to the extent such taxes are attributable to distilled spirits,

''(B) $270 to the extent such taxes are attributable to wine, and

''(C) $87 to the extent such taxes are attributable to beer.

Such credit shall not exceed the amount of taxes imposed by paragraph (1) with respect to distilled spirits, wine, or beer, as the case may be, for which the dealer is liable.

''(5) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

''(A) LIABILITY FOR TAX.—A person holding any tax-increased article on January 1, 1991, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

''(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

''(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before June 30, 1991.

''(6) CONTROLLED GROUPS.—

''(A) CORPORATIONS.—In the case of a controlled group—

''(i) the 500 wine gallon amount specified in paragraph (3), and

''(ii) the $240, $270, and $87 amounts specified in paragraph (4),

shall be apportioned among the dealers who are component members of such group in such manner as the Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term 'controlled group' has the meaning given to such term by subsection (a) of section 1563 of such Code; except that

for such purposes the phrase 'more than 50 percent' shall be substituted for the phrase 'at least 80 percent' each place it appears in such subsection.

''(B) NONINCORPORATED DEALERS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of dealers under common control where 1 or more of such dealers is not a corporation.

''(7) OTHER LAWS APPLICABLE.—

''(A) IN GENERAL.—All provisions of law, including penalties, applicable to the comparable excise tax with respect to any tax-increased article shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by the comparable excise tax.

''(B) COMPARABLE EXCISE TAX.—For purposes of subparagraph (A), the term 'comparable excise tax' means—

''(i) the tax imposed by section 5001 of such Code in the case of distilled spirits,

''(ii) the tax imposed by section 5041 of such Code in the case of wine, and

''(iii) the tax imposed by section 5051 of such Code in the case of beer.

''(8) DEFINITIONS.—For purposes of this subsection—

''(A) IN GENERAL.—Terms used in this subsection which are also used in subchapter A of chapter 51 of such Code shall have the respective meanings such terms have in such part.

''(B) PERSON.—The term 'person' includes any State or political subdivision thereof, or any agency or instrumentality of a State or political subdivision thereof.

''(C) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury or his delegate.

''(9) TREATMENT OF IMPORTED PERFUMES CONTAINING DISTILLED SPIRITS.—For purposes of this subsection, any article described in section 5001(a)(3) of such Code shall be treated as distilled spirits; except that the tax imposed by paragraph (1) shall be imposed on a wine gallon basis in lieu of a proof gallon basis. To the extent provided by regulations prescribed by the Secretary, the preceding sentence shall not apply to any article held on January 1, 1991, on the premises of a retail establishment.''

FLOOR STOCKS TAX TREATMENT OF ARTICLES IN FOREIGN TRADE ZONES

Section 11218 of Pub. L. 101–508 provided that: ''Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) or any other provision of law, any article which is located in a foreign trade zone on the effective date of any increase in tax under the amendments made by this part or part I [part I (§§ 11201–11203) or part II (§§ 11211–11218) of subtitle B of title XI of Pub. L. 101–508, see Tables for classification] shall be subject to floor stocks taxes imposed by such parts if—

''(1) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act [19 U.S.C. 81c(a)], or

''(2) such article is held on such date under the supervision of a customs officer pursuant to the 2d proviso of such section 3(a).''

FLOOR STOCKS TAXES ON DISTILLED SPIRITS

Section 27(b) of Pub. L. 98–369, as amended by Pub. L. 99–514, § 2, title XVIII, § 1801(c)(3), Oct. 22, 1986, 100 Stat. 2095, 2786, provided that:

''(1) IMPOSITION OF TAX.—On distilled spirits on which tax was imposed under section 5001 or 7652 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] before October 1, 1985, and which were held on such date for sale by any person, there shall be imposed a tax at the rate of $2.00 for each proof gallon and a proportionate tax at the like rate on all fractional parts of a proof gallon.

''(2) EXCEPTION FOR CERTAIN SMALL WHOLESALE OR RETAIL DEALERS.—No tax shall be imposed by paragraph (1) on distilled spirits held on October 1, 1985, by any dealer if—

''(A) the aggregate liquid volume of distilled spirits held by such dealer on such date does not exceed 500 wine gallons, and

''(B) such dealer submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

''(3) CREDIT AGAINST TAX.—Each dealer shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to $800. Such credit shall not exceed the amount of taxes imposed by paragraph (1) for which the dealer is liable.

''(4) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

''(A) LIABILITY FOR TAX.—A person holding distilled spirits on October 1, 1985, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

''(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall by regulations prescribe.

''(C) TIME FOR PAYMENT.—

''(i) IN GENERAL.—Except as provided in clause (ii), the tax imposed by paragraph (1) shall be paid on or before April 1, 1986.

''(ii) INSTALLMENT PAYMENT OF TAX IN CASE OF SMALL OR MIDDLE-SIZED DEALERS.—In the case of any small or middle-sized dealer, the tax imposed by paragraph (1) may be paid in 3 equal installments due as follows:

''(I) The first installment shall be paid on or before April 1, 1986.

''(II) The second installment shall be paid on or before July 1, 1986.

''(III) The third installment shall be paid on or before October 1, 1986.

If the taxpayer does not pay any installment under this clause on or before the date prescribed for its payment, the whole of the unpaid tax shall be paid upon notice and demand from the Secretary.

''(iii) SMALL OR MIDDLE-SIZED DEALER.—For purposes of clause (ii), the term 'small or middle-sized dealer' means any dealer if the aggregate gross sales receipts of such dealer for its most recent taxable year ending before October 1, 1985, does not exceed $500,000.

''(5) CONTROLLED GROUPS.—

''(A) CONTROLLED GROUPS OF CORPORATIONS.—In the case of a controlled group—

''(i) the 500 wine gallon amount specified in paragraph (2),

''(ii) the $800 amount specified in paragraph (3), and

''(iii) the $500,000 amount specified in paragraph (4)(C)(iii),

shall be apportioned among the dealers who are component members of such group in such manner as the Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term 'controlled group' has the meaning given to such term by subsection (a) of section 1563 of the Internal Revenue Code of 1986; except that for such purposes the phrase 'more than 50 percent' shall be substituted for the phrase 'at least 80 percent' each place it appears in such subsection.

''(B) NONINCORPORATED DEALERS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of dealers under common control where 1 or more of such dealers is not a corporation.

''(6) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5001 of the Internal Revenue Code of 1986 shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply in

respect of the taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 5001.

''(7) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) DEALER.—The term 'dealer' means—

''(i) any wholesale dealer in liquors (as defined in section 5112(b) of the Internal Revenue Code of 1986), and

''(ii) any retail dealer in liquors (as defined in section 5122(a) of such Code).

''(B) DISTILLED SPIRITS.—The term 'distilled spirits' has the meaning given such term by section 5002(a)(8) of the Internal Revenue Code of 1986.

''(C) PERSON.—The term 'person' includes any State or political subdivision thereof, or any agency or instrumentality of a State or political subdivision thereof.

''(D) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury or his delegate.

''(E) TREATMENT OF IMPORTED PERFUMES CONTAINING DISTILLED SPIRITS.—Any article described in section 5001(a)(3) of such Code shall be treated as distilled spirits; except that the tax imposed by paragraph (1) shall be imposed on a wine gallon basis in lieu of a proof gallon basis. To the extent provided in regulations prescribed by the Secretary, the preceding sentence shall not apply to any article held on October 1, 1985, on the premises of a retail establishment.

''(F) TREATMENT OF DISTILLED SPIRITS IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) or any other provision of law, distilled spirits which are located in a foreign trade zone on October 1, 1985, shall be subject to the tax imposed by paragraph (1) and shall be treated for purposes of this subsection as held on such date for sale if—

''(i) internal revenue taxes have been determined, or customs duties liquidated, with respect to such distilled spirits before such date pursuant to a request made under the first proviso of section 3(a) of such Act [19 U.S.C. 81c(a)], or

''(ii) such distilled spirits are held on such date under the supervision of customs pursuant to the second proviso of such section 3(a).

Under regulations prescribed by the Secretary, provisions similar to sections 5062 and 5064 of such Code shall apply to distilled spirits with respect to which tax is imposed by paragraph (1) by reason of this subparagraph.''

§ 5002. Definitions

(a) In general

For purposes of this chapter—

(1) Distilled spirits plant

The term ''distilled spirits plant'' means an establishment which is qualified under subchapter B to perform any distilled spirits operation.

(2) Distilled spirits operation

The term ''distilled spirits operation'' means any operation for which qualification is required under subchapter B.

(3) Bonded premises

The term ''bonded premises'', when used with respect to distilled spirits, means the premises of a distilled spirits plant, or part thereof, on which distilled spirits operations are authorized to be conducted.

(4) Distiller

The term ''distiller'' includes any person who—

(A) produces distilled spirits from any source or substance,

(B) brews or makes mash, wort, or wash fit for distillation or for the production of distilled spirits (other than the making or using of mash, wort, or wash in the authorized production of wine or beer, or the production of vinegar by fermentation),

(C) by any process separates alcoholic spirits from any fermented substance, or

(D) making or keeping mash, wort, or wash, has a still in his possession or use.

(5) Processor

(A) In general

The term ''processor'', when used with respect to distilled spirits, means any person who—

(i) manufactures, mixes, or otherwise processes distilled spirits, or

(ii) manufactures any article.

(B) Rectifier, bottler, etc., included

The term ''processor'' includes (but is not limited to) a rectifier, bottler, and denaturer.

(6) Certain operations not treated as processing

In applying paragraph (5), there shall not be taken into account—

(A) Operations as distiller

Any process which is the operation of a distiller.

(B) Mixing of taxpaid spirits for immediate consumption

Any mixing (after determination of tax) of distilled spirits for immediate consumption.

(C) Use by apothecaries

Any process performed by an apothecary with respect to distilled spirits which such apothecary uses exclusively in the preparation or making up of medicines unfit for use for beverage purposes.

(7) Warehouseman

The term ''warehouseman'', when used with respect to distilled spirits, means any person who stores bulk distilled spirits.

(8) Distilled spirits

The terms ''distilled spirits'', ''alcoholic spirits'', and ''spirits'' mean that substance known as ethyl alcohol, ethanol, or spirits of wine in any form (including all dilutions and mixtures thereof from whatever source or by whatever process produced).

(9) Bulk distilled spirits

The term ''bulk distilled spirits'' means distilled spirits in a container having a capacity in excess of 1 wine gallon.

(10) Proof spirits

The term ''proof spirits'' means that liquid which contains one-half its volume of ethyl alcohol of a specific gravity of 0.7939 at 60 degrees Fahrenheit (referring to water at 60 degrees Fahrenheit as unity).

(11) Proof gallon

The term ''proof gallon'' means a United States gallon of proof spirits, or the alcoholic equivalent thereof.

(12) Container

The term ''container'', when used with respect to distilled spirits, means any receptacle, vessel, or form of package, bottle, tank, or pipeline used, or capable of use, for holding, storing, transferring, or conveying distilled spirits.

(13) Approved container

The term ''approved container'', when used with respect to distilled spirits, means a container the use of which is authorized by regulations prescribed by the Secretary.

(14) Article

Unless another meaning is distinctly expressed or manifestly intended, the term ''article'' means any substance in the manufacture of which denatured distilled spirits are used.

(15) Export

The terms ''export'', ''exported'', and ''exportation'' include shipments to a possession of the United States.

(b) Cross references

(1) For definition of manufacturer of stills, see section 5102.

(2) For definition of dealer, see section 5121(c)(3).

(3) For definitions of wholesale dealers, see section 5121(c).

(4) For definitions of retail dealers, see section 5122(c).

(5) For definitions of general application to this title, see chapter 79.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1315; amended Pub. L. 89–44, title VIII, § 807(a), June 21, 1965, 79 Stat. 164; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–39, title VIII, § 805(e), July 26, 1979, 93 Stat. 278; Pub. L. 103–465, title I, § 136(c)(1), Dec. 8, 1994, 108 Stat. 4841; Pub. L. 109–59, title XI, § 11125(b)(13), Aug. 10, 2005, 119 Stat. 1956.)

PRIOR PROVISIONS

A prior section 5002, act Aug. 16, 1954, ch. 736, 68A Stat. 597, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

Provisions similar to those comprising subsec. (a)(6), (9), and (11) of this section were contained in prior sections 5213(a)(1) and 5319(1), (2), and (7), act Aug. 16, 1954, ch. 736, 68A Stat. 639, 661, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

2005—Subsec. (b)(2). Pub. L. 109–59, § 11125(b)(13)(A), substituted ''section 5121(c)(3)'' for ''section 5112(a)''.

Subsec. (b)(3). Pub. L. 109–59, § 11125(b)(13)(B), substituted ''section 5121(c)'' for ''section 5112''.

Subsec. (b)(4). Pub. L. 109–59, § 11125(b)(13)(C), substituted ''section 5122(c)'' for ''section 5122''.

1994—Subsec. (b)(1) to (6). Pub. L. 103–465 redesignated pars. (2) to (6) as (1) to (5), respectively, and struck out former par. (1) which provided a cross reference to section 5041(c) of this title for definition of ''wine gallon''.

1979—Subsec. (a)(1). Pub. L. 96–39 substituted ''distilled spirits operation'' for ''operation, or any combination of operations, for which qualification is required under such subchapter''.

Subsec. (a)(2), (3). Pub. L. 96–39 added par. (2) and redesignated former par. (2) as (3). Former par. (3), defining ''bottling premises'', was struck out.

Subsec. (a)(4). Pub. L. 96–39 redesignated par. (5) as (4). Former par. (4), defining ''bonded warehouseman'', was struck out.

Subsec. (a)(5) to (7). Pub. L. 96–39 added pars. (5) to (7) and redesignated former pars. (5) to (7) as (4), (8), and (10), respectively.

Subsec. (a)(8). Pub. L. 96–39 redesignated former par. (6) as (8). Former par. (8) redesignated (11).

Subsec. (a)(9). Pub. L. 96–39 added par. (9) and redesignated par. (9) as (12).

Subsec. (a)(10) to (15). Pub. L. 96–39 redesignated former pars. (7) to (12) as (10) to (15), respectively.

Subsec. (b). Pub. L. 95–39 struck out par. (2) which provided for a cross reference to section 5082 for a definition of rectifier and redesignated pars. (3) to (7) as (2) to (6), respectively.

1976—Subsec. (a)(10). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

1965—Subsec. (a). Pub. L. 89–44 added par. (12).

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–59, title XI, § 11125(c), Aug. 10, 2005, 119 Stat. 1957, provided that: ''The amendments made by this section [see Tables for classification] shall take effect on July 1, 2008, but shall not apply to taxes imposed for periods before such date.''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by 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.

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 1965 AMENDMENT

Section 807(c) of Pub. L. 89–44 provided that: ''The amendments made by subsections (a) and (b) [amending this section and section 5053 of this title] shall take effect on July 1, 1965.''

§ 5003. Cross references to exemptions, etc.

(1) For provisions authorizing the withdrawal of distilled spirits free of tax for use by Federal or State agencies, see sections 5214(a)(2) and 5313.

(2) For provisions authorizing the withdrawal of distilled spirits free of tax by nonprofit educational organizations, scientific universities or colleges of learning, laboratories, hospitals, blood banks, sanitariums, and charitable clinics, see section 5214(a)(3).

(3) For provisions authorizing the withdrawal of certain imported distilled spirits from customs custody without payment of tax, see section 5232.

(4) For provisions authorizing the withdrawal of denatured distilled spirits free of tax, see section 5214(a)(1).

(5) For provisions exempting from tax distilled spirits for use in production of vinegar by the vaporizing process, see section 5505(j).

(6) For provisions relating to the withdrawal of wine spirits without payment of tax for use in the production of wine, see section 5373.

(7) For provisions exempting from tax volatile fruit-flavor concentrates, see section 5511.

(8) For provisions authorizing the withdrawal of distilled spirits from bonded premises without payment of tax for export, see section 5214(a)(4).

(9) For provisions authorizing withdrawal of distilled spirits without payment of tax to customs bonded warehouses for export, see section 5214(a)(9).

(10) For provisions relating to withdrawal of distilled spirits without payment of tax as supplies for certain vessels and aircraft, see 19 U.S.C. 1309.

(11) For provisions authorizing regulations for withdrawal of distilled spirits for use of United States free of tax, see section 7510.

(12) For provisions relating to withdrawal of distilled spirits without payment of tax to foreign-trade zones, see 19 U.S.C. 81c.

(13) For provisions relating to exemption from tax of taxable articles going into the possessions of the United States, see section 7653(b).

(14) For provisions authorizing the withdrawal of distilled spirits without payment of tax for use in certain research, development, or testing, see section 5214(a)(10).

(15) For provisions authorizing the withdrawal of distilled spirits without payment of tax for transfer to manufacturing bonded warehouses for manufacturing for export, see section 5214(a)(6).

(16) For provisions authorizing the withdrawal of articles from the bonded premises of a distilled spirits plant free of tax when contained in an article, see section 5214(a)(11).

(17) For provisions relating to allowance for certain losses in bond, see section 5008(a).

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1316; amended Pub. L. 95–176, §§ 3(c), 4(f), Nov. 14, 1977, 91 Stat. 1365, 1366; Pub. L. 96–39, title VIII, § 807(a)(1), July 26, 1979, 93 Stat. 280.)

PRIOR PROVISIONS

A prior section 5003, act Aug. 16, 1954, ch. 736, 68A Stat. 597, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1979—Par. (9). Pub. L. 96–39, § 807(a)(1)(A), struck out ''section 5522(a) and'' before ''section 5214(a)(9)''.

Pars. (15) to (17). Pub. L. 96–39, § 807(a)(1)(B), added pars. (15) and (16) and redesignated former par. (15) as (17).

1977—Par. (9). Pub. L. 95–176, § 3(c), struck out ''manufacturing'' after ''customs'' and inserted reference to section 5214(a)(9).

Par. (14). Pub. L. 95–176, § 4(f), substituted ''withdrawal of distilled spirits without payment of tax for use in certain research, development, or testing, see section 5214(a)(10)'' for ''removal of samples free of tax for making tests or laboratory analyses, see section 5214(a)(9)''.

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 1977 AMENDMENT

Section 7 of Pub. L. 95–176 provided that: ''The amendments made by this Act [amending this section and sections 5004, 5005, 5008, 5025, 5062, 5066, 5175, 5178, 5205, 5207, 5214, 5215, and 5234 of this title] shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act [Nov. 14, 1977].''

§ 5004. Lien for tax

(a) Distilled spirits subject to lien

(1) General

The tax imposed by section 5001(a)(1) shall be a first lien on the distilled spirits from the time the spirits are in existence as such until the tax is paid.

(2) Exceptions

The lien imposed by paragraph (1), or any similar lien imposed on the spirits under prior provisions of internal revenue law, shall terminate in the case of distilled spirits produced on premises qualified under internal revenue law for the production of distilled spirits when such distilled spirits are—

(A) withdrawn from bonded premises on determination of tax; or

(B) withdrawn from bonded premises free of tax under provisions of section 5214(a)(1), (2), (3), (11), or (12), or section 7510; or

(C) exported, deposited in a foreign-trade zone, used in the production of wine, laden as supplies upon, or used in the maintenance or repair of, certain vessels or aircraft, deposited in a customs bonded warehouse, or used in certain research, development, or testing, as provided by law.

(b) Cross reference

For provisions relating to extinguishing of lien in case of redistillation, see section 5223(e).

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1317; amended Pub. L. 89–44, title VIII, § 805(f)(1), June 21, 1965, 79 Stat. 161; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95–176, § 4(c), Nov. 14, 1977, 91 Stat. 1366; Pub. L. 96–39, title VIII, § 807(a)(2), July 26, 1979, 93 Stat. 280; Pub. L. 96–223, title II, § 232(e)(2)(C), Apr. 2, 1980, 94 Stat. 280.)

PRIOR PROVISIONS

A prior section 5004, act Aug. 16, 1954, ch. 736, 68A Stat. 598, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

Provisions similar to those comprising subsec. (b)(1) of this section were contained in prior section 5007(e)(1), act Aug. 16, 1954, ch. 736, 68A Stat. 600, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1980—Subsec. (a)(2)(B). Pub. L. 96–223 substituted ''(11), or (12),'' for ''or (11),''.

1979—Subsec. (a)(2)(B). Pub. L. 96–39, § 807(a)(2)(C), substituted ''(3), or (11)'' for ''or (3)''.

Subsecs. (b), (c). Pub. L. 96–39, § 807(a)(2)(A), (B), redesignated subsec. (c) as (b). Former subsec. (b), relating to other property subject to lien, was repealed.

1977—Subsec. (a)(2). Pub. L. 95–176 struck out reference to par. (9) of section 5214(a) in subpar. (B), and in subpar. (C) substituted ''a customs bonded warehouse'' for ''customs manufacturing bonded warehouses'' and provided for termination of the lien for tax when the distilled spirits are used in certain research, development, or testing.

1976—Subsec. (b)(3)(B), (4). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'', wherever appearing.

1965—Subsec. (c). Pub. L. 89–44 substituted ''5223(e)'' for ''5223(d)''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–223 effective on the first day of the first calendar month beginning more than 60 days after Apr. 2, 1980, see section 232(h)(3) of Pub. L. 96–223, set out as an Effective Date note under section 5181 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 1977 AMENDMENT

Amendment by Pub. L. 95–176 effective on first day of first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95–176, set out as a note under section 5003 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 805(g)(2) of Pub. L. 89–44 provided that: "The amendments made by subsections (b), (d), and (f) (other than paragraph (6)) [amending this section and sections 5025, 5083, 5223, and 5234 of this title], shall take effect on October 1, 1965."

§ 5005. Persons liable for tax

(a) General

The distiller or importer of distilled spirits shall be liable for the taxes imposed thereon by section 5001(a)(1).

(b) Domestic distilled spirits

(1) Liability of persons interested in distilling

Every proprietor or possessor of, and every person in any manner interested in the use of, any still, distilling apparatus, or distillery, shall be jointly and severally liable for the taxes imposed by law on the distilled spirits produced therefrom.

(2) Exception

A person owning or having the right of control of not more than 10 percent of any class of stock of a corporate proprietor of a distilled spirits plant shall not be deemed to be a person liable for the tax for which such proprietor is liable under the provisions of paragraph (1). This exception shall not apply to an officer or director of such corporate proprietor.

(c) Proprietors of distilled spirits plants

(1) Bonded storage

Every person operating bonded premises of a distilled spirits plant shall be liable for the internal revenue tax on all distilled spirits while the distilled spirits are stored on such premises, and on all distilled spirits which are in transit to such premises (from the time of removal from the transferor's bonded premises) pursuant to application made by him. Such liability for the tax on distilled spirits shall continue until the distilled spirits are transferred or withdrawn from bonded premises as authorized by law, or until such liability for tax is relieved by reason of the provisions of section 5008(a). Nothing in this paragraph shall relieve any person from any liability imposed by subsection (a) or (b).

(2) Transfers in bond

When distilled spirits are transferred in bond in accordance with the provisions of section 5212, persons liable for the tax on such spirits under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall be relieved of such liability, if proprietors of transferring and receiving premises are independent of each other and neither has a proprietary interest, directly or indirectly, in the business of the other, and all persons liable for the tax under subsection (a) or (b), or under any similar prior provisions of internal revenue law, have divested themselves of all interest in the spirits so transferred. Such relief from liability shall be effective from the time of removal from the transferor's bonded premises, or from the time of divestment of interest, whichever is later.

(d) Withdrawals free of tax

All persons liable for the tax under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall be relieved of such liability as to distilled spirits withdrawn free of tax under the provisions of section 5214(a)(1), (2), (3), (11), or (12), or under section 7510, at the time such spirits are so withdrawn from bonded premises.

(e) Withdrawals without payment of tax

(1) Liability for tax

Any person who withdraws distilled spirits from the bonded premises of a distilled spirits plant without payment of tax, as provided in section 5214(a)(4), (5), (6), (7), (8), (9), (10), or (13), shall be liable for the internal revenue tax on such distilled spirits, from the time of such withdrawal; and all persons liable for the tax on such distilled spirits under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall, at the time of such withdrawal, be relieved of any such liability on the distilled spirits so withdrawn if the person withdrawing such spirits and the person, or persons, liable for the tax under subsection (a) or (b), or under any similar prior provisions of internal revenue law, are independent of each other and neither has a proprietary interest, directly or indirectly, in the business of the other, and all persons liable for the tax under subsection (a) or (b), or under any similar prior provisions of internal revenue law, have divested themselves of all interest in the spirits so withdrawn.

(2) Relief from liability

All persons liable for the tax on distilled spirits under paragraph (1) of this subsection, or under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall be relieved of any such liability at the time, as the case may be, the distilled spirits are exported, deposited in a foreign-trade zone, used in the production of wine, used in the production of nonbeverage wine or wine products, deposited in customs bonded warehouses, laden as supplies upon, or used in the maintenance or repair of, certain vessels or aircraft, or used in certain research, development, or testing, as provided by law.

(f) Cross references

(1) For provisions requiring bond covering operations at, and withdrawals from, distilled spirits plants, see section 5173.

(2) For provisions relating to transfer of tax liability to redistiller in case of redistillation, see section 5223.

(3) For liability for tax on denatured distilled spirits, articles, and volatile fruit-flavor concentrates, see section 5001(a)(5) and (6).

(4) For liability for tax on distilled spirits withdrawn free of tax, see section 5001(a)(4).

(5) For liability of wine producer for unlawfully using wine spirits withdrawn for the production of wine, see section 5391.

(6) For provisions relating to transfer of tax liability for wine, see section 5043(a)(1)(A).

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1318; amended Pub. L. 94–455, title XIX, § 1905(a)(1), Oct. 4, 1976, 90 Stat. 1818; Pub. L. 95–176, § 4(b), (d), Nov. 14, 1977, 91 Stat. 1366; Pub. L. 96–39, title VIII, § 807(a)(3), July 26, 1979, 93 Stat. 280; Pub. L. 96–223, title II, § 232(e)(2)(D), Apr. 2, 1980, 94 Stat. 280; Pub. L. 98–369, div. A,

title IV, § 455(b), July 18, 1984, 98 Stat. 823; Pub. L. 103–465, title I, § 136(c)(2), Dec. 8, 1994, 108 Stat. 4841.)

PRIOR PROVISIONS

A prior section 5005, acts Aug. 16, 1954, ch. 736, 68A Stat. 599; Sept. 2, 1958, Pub. L. 85–859, title II, § 206(d), 72 Stat. 1431, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

Provisions similar to those comprising subsec. (c)(1), (2) of this section were contained in prior sections 5194(f), 5217(a), and 5232(a), act Aug. 16, 1954, ch. 736, 68A Stat. 634, 641, 643, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1994—Subsec. (f)(3). Pub. L. 103–465, § 136(c)(2)(A), substituted ''section 5001(a)(5) and (6)'' for ''section 5001(a)(6) and (7)''.

Subsec. (f)(4). Pub. L. 103–465, § 136(c)(2)(B), substituted ''section 5001(a)(4)'' for ''section 5001(a)(5)''.

1984—Subsec. (e)(1). Pub. L. 98–369, § 455(b)(1), substituted ''(10), or (13)'' for ''or (10)''.

Subsec. (e)(2). Pub. L. 98–369, § 455(b)(2), inserted ''used in the production of nonbeverage wine or wine products,''.

1980—Subsec. (d). Pub. L. 96–223 substituted ''(11), or (12),'' for ''or (11),''.

1979—Subsec. (c)(3). Pub. L. 96–39, § 807(a)(3)(A), struck out par. (3) which related to liability for taxes with regard to withdrawals of distilled spirits from the bonded premises of a distilled spirits plant.

Subsec. (d). Pub. L. 96–39, § 807(a)(3)(B), substituted ''(3), or (11)'' for ''or (3)''.

Subsec. (f)(1). Pub. L. 96–39, § 807(a)(3)(C), substituted ''requiring bond covering operations at, and withdrawals from, distilled spirits plants'' for ''conditioning warehousing bonds on the payment of the tax'' and ''5173'' for ''5173(c)''.

Subsec. (f)(6). Pub. L. 96–39, § 807(a)(3)(D), added par. (6).

1977—Subsec. (d). Pub. L. 95–176, § 4(d)(1), struck out reference to par. (9) of section 5214(a).

Subsec. (e)(1). Pub. L. 95–176, § 4(d)(2), inserted reference to pars. (9) and (10) of section 5214(a).

Subsec. (e)(2). Pub. L. 95–176, § 4(b), substituted ''customs bonded warehouses'' for ''customs manufacturing bonded warehouses'' and provided for relief from liability for tax on distilled spirits used in certain research, development, or testing.

1976—Subsec. (c)(2). Pub. L. 94–455 substituted ''Such relief from liability shall be effective from the time of removal from the transferor's bonded premises, or from the time of divestment of interest, whichever is later.'' for ''Such liability for the tax on distilled spirits shall continue until the distilled spirits are transferred or withdrawn from bonded premises as authorized by law, or until such liability for tax is relieved by reason of the provisions of section 5008(a). Nothing in this paragraph shall relieve any person from any liability imposed by subsection (a) or (b).''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by 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.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective July 18, 1984, see section 456(c) of Pub. L. 98–369, set out as an Effective Date note under section 5101 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–223 effective on first day of first calendar month beginning more than 60 days after Apr. 2, 1980, see section 232(h)(3) of Pub. L. 96–223, set out as an Effective Date note under section 5181 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 1977 AMENDMENT

Amendment by Pub. L. 95–176 effective on first day of first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95–176, set out as a note under section 5003 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1905(d) of Pub. L. 94–455 provided that: ''The amendments made by this section [amending this section and sections 5007 to 5009, 5025, 5026, 5043, 5054, 5061, 5105, 5111, 5113, 5114, 5117, 5121, 5122, 5131, 5142, 5148, 5171, 5174, 5177, 5179, 5214, 5222, 5232 to 5234, 5272, 5314, 5362, 5368, 5392, 5505, 5551, 5601, 5662, 5685, 5701, 5703, 5704, 5712, 5723, 5751, 5752, 5762, and 5763 of this title and repealing sections 5104, 5144, 5315, 5676, and 5689 of this title] shall take effect on the first day of the first month which begins more than 90 days after the date of the enactment of this Act [Oct. 4, 1976].''

§ 5006. Determination of tax

(a) Requirements

(1) In general

Except as otherwise provided in this section, the tax on distilled spirits shall be determined when the spirits are withdrawn from bond. Such tax shall be determined by such means as the Secretary shall by regulations prescribe, and with the use of such devices and apparatus (including but not limited to tanks and pipelines) as the Secretary may require. The tax on distilled spirits withdrawn from the bonded premises of a distilled spirits plant shall be determined upon completion of the gauge for determination of tax and before withdrawal from bonded premises, under such regulations as the Secretary shall prescribe.

(2) Distilled spirits not accounted for

If the Secretary finds that the distiller has not accounted for all the distilled spirits produced by him, he shall, from all the evidence he can obtain, determine what quantity of distilled spirits was actually produced by such distiller, and an assessment shall be made for the difference between the quantity reported and the quantity shown to have been actually produced at the rate of tax imposed by law for every proof gallon.

(b) Taxable loss

(1) On original quantity

Where there is evidence satisfactory to the Secretary that there has been any loss of distilled spirits from any cask or other package deposited on bonded premises, other than a loss which by reason of section 5008(a) is not taxable, the Secretary may require the withdrawal from bonded premises of such distilled spirits, and direct the officer designated by him to collect the tax accrued on the original quantity of distilled spirits entered for deposit on bonded premises in such cask or package; except that, under regulations prescribed by the Secretary, when the extent of any loss from causes other than theft or unauthorized voluntary destruction can be established by the proprietor to the satisfaction of the Sec-

retary an allowance of the tax on the loss so established may be credited against the tax on the original quantity. If such tax is not paid on demand it shall be assessed and collected as other taxes are assessed and collected.

(2) Alternative method

Where there is evidence satisfactory to the Secretary that there has been access, other than is authorized by law, to the contents of casks or packages stored on bonded premises, and the extent of such access is such as to evidence a lack of due diligence or a failure to employ necessary and effective controls on the part of the proprietor, the Secretary (in lieu of requiring the casks or packages to which such access has been had to be withdrawn and tax paid on the original quantity of distilled spirits entered for deposit on bonded premises in such casks or packages as provided in paragraph (1)) may assess an amount equal to the tax on 5 proof gallons of distilled spirits at the prevailing rate on each of the total number of such casks or packages as determined by him.

(3) Application of subsection

The provisions of this subsection shall apply to distilled spirits which are filled into casks or packages, as authorized by law, after entry and deposit on bonded premises, whether by recasking, filling from storage tanks, consolidation of packages, or otherwise; and the quantity filled into such casks or packages shall be deemed to be the original quantity for the purpose of this subsection, in the case of loss from such casks or packages.

(c) Distilled spirits not bonded

(1) General

The tax on any distilled spirits, removed from the place where they were distilled and (except as otherwise provided by law) not deposited in storage on bonded premises of a distilled spirits plant, shall, at any time within the period of limitation provided in section 6501, when knowledge of such fact is obtained by the Secretary, be assessed on the distiller of such distilled spirits (or other person liable for the tax) and payment of such tax immediately demanded and, on the neglect or refusal of payment, the Secretary shall proceed to collect the same by distraint. This paragraph shall not exclude any other remedy or proceeding provided by law.

(2) Production at other than qualified plants

Except as otherwise provided by law, the tax on any distilled spirits produced in the United States at any place other than a qualified distilled spirits plant shall be due and payable immediately upon production.

(d) Unlawfully imported distilled spirits

Distilled spirits smuggled or brought into the United States unlawfully shall, for purposes of this chapter, be held to be imported into the United States, and the internal revenue tax shall be due and payable at the time of such importation.

(e) Cross reference

For provisions relating to removal of distilled spirits from bonded premises on determination of tax, see section 5213.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1320; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–39, title VIII, §§ 804(a), 807(a)(4), July 26, 1979, 93 Stat. 274, 280.)

PRIOR PROVISIONS

A prior section 5006, acts Aug. 16, 1954, ch. 736, 68A Stat. 599; Sept. 2, 1958, Pub. L. 85–859, title II, § 206(a), 72 Stat. 1431, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

Provisions similar to those comprising subsecs. (a)(2)(A), (3) of this section were contained in prior sections 5007(e)(1) and 5232(a), act Aug. 16, 1954, ch. 736, 68A Stat. 600, 643, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1979—Subsec. (a)(1). Pub. L. 96–39, § 804(a), struck out ''internal revenue'' after ''provided in this section, the'' and ''storage, gauging, and bottling'' after ''but not limited to''.

Subsec. (a)(2), (3). Pub. L. 96–39, § 804(a), redesignated par. (3) as (2). Former par. (2), relating to distilled spirits entered for storage, was struck out.

Subsec. (b)(1). Pub. L. 96–39, § 807(a)(4)(A), (B), substituted ''on bonded premises'' for ''in storage in internal revenue bond'' in two places and ''; except'' for '', notwithstanding that the time specified in any bond given for the withdrawal of the spirits entered in storage in such cask or package has not expired, except''.

Subsec. (b)(2), (3). Pub. L. 96–39, § 807(a)(4)(B), substituted ''on bonded premises'' for ''in storage in internal revenue bond''.

1976—Subsecs. (a) to (c). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

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.

APPLICATION OF 1972 AMENDMENTS TO PRIOR SECTIONS

Section 206(f) of Pub. L. 85–859, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided:

''(1) The amendments made by this section [amending this section and sections 5005, 5232, 5242, and 5243 of this title] shall apply with respect to:

''(A) distilled spirits which on the date of the enactment of this Act [Sept. 2, 1958] are in internal revenue bonded warehouses or are in transit to or between such warehouses, and in respect of which the 8-year bonding period has not expired before the date of enactment of this Act; and

''(B) distilled spirits which after the date of the enactment of this Act [Sept. 2, 1958] are entered for deposit in an internal revenue bonded warehouse.

''(2) If the 8 years from the date of original entry of any distilled spirits for deposit in internal revenue bonded warehouses expires at any time during the 10-day period which begins on the date of the enactment of this Act [Sept. 2, 1958], the amendments made by this section shall apply with respect to such spirits if (and only if) before the close of such 10-day period there is filed with the Secretary of the Treasury or his delegate either—

''(A) a consent of surety which changes (for periods on and after the date of the enactment of this Act) the condition based on the withdrawal of spirits from the internal revenue bonded warehouse within 8 years from the date of original entry for deposit to a condition based on the withdrawal of spirits from the internal revenue bonded warehouse within 20 years from the date of original entry for deposit, or

''(B) a bond which applies to periods on and after the date of the enactment of this Act and which satisfies the requirements of the Internal Revenue Code

of 1986 [formerly I.R.C. 1954], as amended by this section, and is conditioned on the withdrawal of spirits from the internal revenue bonded warehouse within 20 years from the date of original entry for deposit.''

§ 5007. Collection of tax on distilled spirits

(a) Tax on distilled spirits removed from bonded premises

The tax on domestic distilled spirits and on distilled spirits removed from customs custody under section 5232 shall be paid in accordance with section 5061.

(b) Collection of tax on imported distilled spirits

The internal revenue tax imposed by section 5001(a)(1) and (2) upon imported distilled spirits shall be collected by the Secretary and deposited as internal revenue collections, under such regulations as the Secretary may prescribe. Section 5688 shall be applicable to the disposition of imported spirits.

(c) Cross references

(1) For authority of the Secretary to make determinations and assessments of internal revenue taxes and penalties, see section 6201(a).

(2) For authority to assess tax on distilled spirits not bonded, see section 5006(c).

(3) For provisions relating to payment of tax, under certain conditions, on distilled spirits withdrawn free of tax, denatured distilled spirits, articles, and volatile fruit-flavor concentrates, see section 5001(a)(4), (5), and (6).

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1322; amended Pub. L. 94–455, title XIX, §§ 1905(b)(2)(A), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1822, 1834; Pub. L. 96–39, title VIII, § 807(a)(5), July 26, 1979, 93 Stat. 280; Pub. L. 103–465, title I, § 136(c)(3), (4), Dec. 8, 1994, 108 Stat. 4841, 4842.)

PRIOR PROVISIONS

A prior section 5007, act Aug. 16, 1954, ch. 736, 68A Stat. 600, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

Prior section 5007(c) related to ''payment of tax on alcoholic compounds from Puerto Rico and Virgin Islands''. See section 7652 of this title.

Prior section 5007(e)(1) related to ''assessment for deficiencies in production and excess of materials used'' and ''requirement''. See sections 5004(b)(1) and 5006(a)(3) of this title.

Prior section 5007(e)(2) related to ''relief from assessment for deficiencies in production and excess of materials used'' and is obsolete.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–465, § 136(c)(3), amended subsec. (b) generally, striking out provisions relating to collection and deposit as internal revenue collections of taxes on imported perfumes containing distilled spirits.

Subsec. (c)(3). Pub. L. 103–465, § 136(c)(4), substituted ''section 5001(a)(4), (5), and (6)'' for ''section 5001(a)(5), (6), and (7)''.

1979—Subsec. (a). Pub. L. 96–39 struck out ''(1) General'' before ''The tax on domestic'' and par. (2) which related to distilled spirits withdrawn to bottling premises under withdrawal bond.

1976—Subsec. (a)(2). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (b)(1). Pub. L. 94–455, §§ 1905(b)(2)(A), 1906(b)(13)(A), struck out second sentence ''Such tax shall be in addition to any customs duty imposed under the Tariff Act of 1930 (46 Stat. 590; 19 U.S.C., chapter 4), or any subsequent act.'' and ''or his delegate'' after ''Secretary'' wherever appearing.

Subsecs. (b)(2), (c)(1). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by 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.

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(b)(2)(A) 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.

§ 5008. Abatement, remission, refund, and allowance for loss or destruction of distilled spirits

(a) Distilled spirits lost or destroyed in bond

(1) Extent of loss allowance

No tax shall be collected in respect of distilled spirits lost or destroyed while in bond, except that such tax shall be collected—

(A) Theft

In the case of loss by theft, unless the Secretary finds that the theft occurred without connivance, collusion, fraud, or negligence on the part of the proprietor of the distilled spirits plant, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them;

(B) Voluntary destruction

In the case of voluntary destruction, unless such destruction is carried out as provided in subsection (b); and

(C) Unexplained shortage

In the case of an unexplained shortage of bottled distilled spirits.

(2) Proof of loss

In any case in which distilled spirits are lost or destroyed, whether by theft or otherwise, the Secretary may require the proprietor of the distilled spirits plant or other person liable for the tax to file a claim for relief from the tax and submit proof as to the cause of such loss. In every case where it appears that the loss was by theft, the burden shall be upon the proprietor of the distilled spirits plant or other person responsible for the distilled spirits tax to establish to the satisfaction of the Secretary that such loss did not occur as the result of connivance, collusion, fraud, or negligence on the part of the proprietor of the distilled spirits plant, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them.

(3) Refund of tax

In any case where the tax would not be collectible by virtue of paragraph (1), but such tax has been paid, the Secretary shall refund such tax.

(4) Limitations

Except as provided in paragraph (5), no tax shall be abated, remitted, credited, or re-

funded under this subsection where the loss occurred after the tax was determined (as provided in section 5006(a)). The abatement, remission, credit, or refund of taxes provided for by paragraphs (1) and (3) in the case of loss of distilled spirits by theft shall only be allowed to the extent that the claimant is not indemnified against or recompensed in respect of the tax for such loss.

(5) Applicability

The provisions of this subsection shall extend to and apply in respect of distilled spirits lost after the tax was determined and before completion of the physical removal of the distilled spirits from the bonded premises.

(b) Voluntary destruction

The proprietor of the distilled spirits plant or other persons liable for the tax imposed by this chapter or by section 7652 with respect to any distilled spirits in bond may voluntarily destroy such spirits, but only if such destruction is under such supervision and under such regulations as the Secretary may prescribe.

(c) Distilled spirits returned to bonded premises

(1) In general

Whenever any distilled spirits on which tax has been determined or paid are returned to the bonded premises of a distilled spirits plant under section 5215(a), the Secretary shall abate or (without interest) credit or refund the tax imposed under section 5001(a)(1) (or the tax equal to such tax imposed under section 7652) on the spirits so returned.

(2) Claim must be filed within 6 months of return of spirits

No allowance under paragraph (1) may be made unless claim therefor is filed within 6 months of the date of the return of the spirits. Such claim may be filed only by the proprietor of the distilled spirits plant to which the spirits were returned, and shall be filed in such form as the Secretary may by regulations prescribe.

(d) Distilled spirits withdrawn without payment of tax

The provisions of subsection (a) shall be applicable to loss of distilled spirits occurring during transportation from bonded premises of a distilled spirits plant to—

(1) the port of export, in case of withdrawal under section 5214(a)(4);

(2) the customs manufacturing bonded warehouse, in case of withdrawal under section 5214(a)(6);

(3) the vessel or aircraft, in case of withdrawal under section 5214(a)(7);

(4) the foreign-trade zone, in case of withdrawal under section 5214(a)(8); and

(5) the customs bonded warehouse in the case of withdrawal under sections 5066 and 5214(a)(9).

The provisions of subsection (a) shall be applicable to loss of distilled spirits withdrawn from bonded premises without payment of tax under section 5214(a)(10) for certain research, development, or testing, until such distilled spirits are used as provided by law.

(e) Other laws applicable

All provisions of law, including penalties, applicable in respect of the internal revenue tax on distilled spirits, shall, insofar as applicable and not inconsistent with subsection (c), be applicable to the credits or refunds provided for under such subsection to the same extent as if such credits or refunds constituted credits or refunds of such tax.

(f) Cross reference

For provisions relating to allowance for loss in case of wine spirits withdrawn for use in wine production, see section 5373(b)(3).

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1323; amended Pub. L. 89–44, title VIII, § 805(a), June 21, 1965, 79 Stat. 160; Pub. L. 90–630, § 1, Oct. 22, 1968, 82 Stat. 1328; Pub. L. 91–659, §§ 1, 2(a), (b), Jan. 8, 1971, 84 Stat. 1964; Pub. L. 94–273, § 47, Apr. 21, 1976, 90 Stat. 382; Pub. L. 94–455, title XIX, §§ 1905(a)(2), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1818, 1834; Pub. L. 95–176, §§ 2(f), 4(e), Nov. 14, 1977, 91 Stat. 1364, 1366; Pub. L. 96–39, title VIII, § 807(a)(6), July 26, 1979, 93 Stat. 281; Pub. L. 105–34, title XIV, § 1411(a), Aug. 5, 1997, 111 Stat. 1046.)

PRIOR PROVISIONS

A prior section 5008, act Aug. 16, 1954, ch. 736, 68A Stat. 602, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5205(a), (g) and 5604(a)(1) of this title.

Provisions similar to those comprising subsecs. (a)(1) to (4) and (f)(1), (2) of this section were contained in prior sections 5011(a)(1) to (4), 5023, 5247(e) and 5522(b), act Aug. 16, 1954, ch. 736, 68A Stat. 604, 606, 648, 679, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1997—Subsec. (c)(1). Pub. L. 105–34 substituted ''on which tax has been determined or paid'' for ''withdrawn from bonded premises on payment or determination of tax''.

1979—Subsec. (a)(1)(C). Pub. L. 96–39, § 807(a)(6)(A), added subpar. (C).

Subsec. (a)(5). Pub. L. 96–39, § 807(a)(6)(B), substituted ''before'' for ''prior to the completion'' and struck out provisions relating to the applicability of this subsection where the loss occurred after the time prescribed for the withdrawal of the distilled spirits from the bonded premises under section 5006(a)(2) and relating to the applicability of this paragraph to any loss of distilled spirits for which abatement, remission, credit, or refund of tax is allowed under subsec. (c).

Subsec. (b). Pub. L. 96–39, § 807(a)(6)(C), struck out ''(1) Distilled spirits in bond'' before ''The proprietor of'' and provisions relating to distilled spirits withdrawn for rectification or bottling.

Subsec. (c). Pub. L. 96–39, § 807(a)(6)(C), added subsec. (c). Former subsec. (c), which related to loss of distilled spirits withdrawn from bond for rectification or bottling, was struck out.

Subsec. (d). Pub. L. 96–39, § 807(a)(6)(D), redesignated subsec. (f) as (d). Former subsec. (d), which related to distilled spirits returned to bonded premises, was struck out.

Subsec. (e). Pub. L. 96–39, § 807(a)(6)(D), (E), redesignated subsec. (g) as (e) and substituted ''subsection (c)'' for ''subsections (b)(2), (c), and (d)'' and ''under such subsection'' for ''under such subsections''. Former subsec. (e), which related to samples of distilled spirits used for analysis or testing by United States, was struck out.

Subsec. (f). Pub. L. 96–39, § 807(a)(6)(D), redesignated subsec. (h) as (f). Former subsec. (f) redesignated (d).

Subsecs. (g), (h). Pub. L. 96–39, § 807(a)(6)(D), redesignated subsecs. (g) and (h) as (e) and (f), respectively.

1977—Subsec. (d). Pub. L. 95–176, § 2(f), reenacted par. (1) and substituted heading ''General'' for ''Allowance of tax'' and ''(or the tax equal to such tax imposed under section 7652)'' for ''or under section 7652''; added pars. (2) and (3); and redesignated as par. (4) provisions of former par. (2) and inserted reference to allowance of claims under par. (2) or (3).

Subsec. (f)(5). Pub. L. 95–176, § 4(e), added par. (5).

1976—Subsec. (b)(1). Pub. L. 94–455, §§ 1905(a)(2)(A), 1906(b)(13)(A), inserted ''or by section 7652'' after ''tax imposed by this chapter'' and struck out ''or his delegate'' after ''Secretary''.

Subsec. (b)(2). Pub. L. 94–455, §§ 1905(a)(2)(B), 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' and inserted '', or under section 7652'' after ''under subpart B of this part''.

Subsec. (c)(1). Pub. L. 94–455, §§ 1905(a)(2)(C), 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing and inserted ''or under section 7652'' after ''under section 5001(a)(1)''.

Subsec. (c)(2), (3). Pub. L. 94–273 substituted ''computation year'' for ''fiscal year'' wherever appearing.

Subsec. (c)(5). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (d)(1). Pub. L. 94–455, §§ 1905(a)(2)(C), (D), 1906(b)(13)(A), struck out ''on or after July 1, 1959,'' after ''from bonded premises,'' and ''or his delegate'' after ''Secretary'' and inserted ''or under section 7652'' after ''under section 5001(a)(1)''.

1971—Subsec. (b)(2). Pub. L. 91–659, § 2(a), struck out condition that the distilled spirits can be destroyed only before bottling and permitted destruction after completion of bottling so long as the distilled spirits are on the bottling premises and added taxes imposed under subpart B of this Part as additional taxes which can be claimed for abatement, remission, credit or refund.

Subsec. (c)(1)(A). Pub. L. 91–659, § 1, added cl. (iii).

Subsec. (c)(5). Pub. L. 91–659, § 2(b), permits distilled spirits returned to bottling premises to be treated for purposes of the various loss provisions as though they had not been removed from the bottling premises.

1968—Subsec. (c)(1). Pub. L. 90–630 inserted provisions allowing abatement, remission, and refund if the casualty loss occurs after completion of the packaging but before the spirits have been removed from the premises of the distilled spirits plant to which the spirits were removed from bond.

1965—Subsec. (d)(2). Pub. L. 89–44 struck out final clause prohibiting the allowance of a claim in respect to any distilled spirits withdrawn from bonded premises of a distilled spirits plant more than 6 months prior to the date of such return.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1411(b) of Pub. L. 105–34 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act [Aug. 5, 1997].''

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 1977 AMENDMENT

Amendment by Pub. L. 95–176 effective on first day of first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95–176, set out as a note under section 5003 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(a)(2) 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 OF 1971 AMENDMENT

Amendment by Pub. L. 91–659 effective on first day of first calendar month which begins more than 90 days after Jan. 8, 1971, see section 6 of Pub. L. 91–659, set out as an Effective Date note under section 5066 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 4 of Pub. L. 90–630 provided that:

''(a) For purposes of subsection (b), the effective date of this Act is the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act [Oct. 22, 1968].

''(b) The amendments made by the first section of this Act [amending this section] shall apply only to losses sustained on or after such effective date. The amendments made by section 2 [amending section 5062 of this title and section 1313 of Title 19, Customs Duties] shall apply only to articles exported on or after such effective date. The amendments made by section 3 [amending section 5232 of this title] shall apply only to withdrawals from customs custody on or after such effective date.''

EFFECTIVE DATE OF 1965 AMENDMENT

Section 805(g)(1) of Pub. L. 89–44 provided that: ''The amendments made by subsections (a), (c), (e), and (f)(6) [amending this section and sections 5062, 5215, and 5608 of this title] shall take effect on July 1, 1965.''

DISTILLED SPIRITS RETURNED TO BONDED PREMISES OF DISTILLED SPIRITS PLANT DURING 1980

Subsec. (c)(1) of this section to be treated as including a reference to section 5041 of this title with respect to distilled spirits returned to the bonded premises of distilled spirits plants during 1980, see section 808(d) of Pub. L. 96–39, set out as a note under section 5061 of this title.

[§ 5009. Repealed. Pub. L. 96–39, title VIII, § 807(a)(7), July 26, 1979, 93 Stat. 281]

Section, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1327; amended Pub. L. 94–455, title XIX, §§ 1905(a)(3), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1818, 1834, related to drawback on exportation of distilled spirits in casks or packages.

A prior section 5009, act Aug. 16, 1954, ch. 736, 68A Stat. 603, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5205(c)(1), (f), (i)(4) and 5206(c) of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1980, see section 810 of Pub. L. 96–39, set out as an Effective Date of 1979 Amendment note under section 5001 of this title.

§ 5010. Credit for wine content and for flavors content

(a) Allowance of credit

(1) Wine content

On each proof gallon of the wine content of distilled spirits, there shall be allowed a credit against the tax imposed by section 5001 (or 7652) equal to the excess of—

(A) $13.50, over

(B) the rate of tax which would be imposed on the wine under section 5041(b) but for its removal to bonded premises.

(2) Flavors content

On each proof gallon of the flavors content of distilled spirits, there shall be allowed a credit against the tax imposed by section 5001 (or 7652) equal to $13.50.

(3) Fractional part of proof gallon

In the case of any fractional part of a proof gallon of the wine content, or of the flavors content, of distilled spirits, a proportionate credit shall be allowed.

(b) Time for determining and allowing credit

(1) In general

The credit allowable by subsection (a)—

(A) shall be determined at the same time the tax is determined under section 5006 (or 7652) on the distilled spirits containing the wine or flavors, and

(B) shall be allowable at the time the tax imposed by section 5001 (or 7652) on such distilled spirits is payable as if the credit allowable by this section constituted a reduction in the rate of tax.

(2) Determination of content in the case of imports

For purposes of this section, the wine content, and the flavors content, of imported distilled spirits shall be established by such chemical analysis, certification, or other methods as may be set forth in regulations prescribed by the Secretary.

(c) Definitions

For purposes of this section—

(1) Wine content

(A) In general

The term ''wine content'' means alcohol derived from wine.

(B) Wine

The term ''wine''—

(i) means wine on which tax would be imposed by paragraph (1), (2), or (3) of section 5041(b) but for its removal to bonded premises, and

(ii) does not include any substance which has been subject to distillation at a distilled spirits plant after receipt in bond.

(2) Flavors content

(A) In general

Except as provided in subparagraph (B), the term ''flavors content'' means alcohol derived from flavors of a type for which drawback is allowable under section 5114.

(B) Exceptions

The term ''flavors content'' does not include—

(i) alcohol derived from flavors made at a distilled spirits plant,

(ii) alcohol derived from flavors distilled at a distilled spirits plant, and

(iii) in the case of any distilled spirits product, alcohol derived from flavors to the extent such alcohol exceeds (on a proof gallon basis) 2½ percent of the finished product.

(Added Pub. L. 96–598, § 6(a), Dec. 24, 1980, 94 Stat. 3488; amended Pub. L. 98–369, div. A, title I, § 27(a)(2), July 18, 1984, 98 Stat. 507; Pub. L. 100–647, title V, § 5063(a), Nov. 10, 1988, 102 Stat. 3681; Pub. L. 101–508, title XI, § 11201(a)(2), Nov. 5, 1990, 104 Stat. 1388–415; Pub. L. 109–59, title XI, § 11125(b)(14), Aug. 10, 2005, 119 Stat. 1956.)

PRIOR PROVISIONS

A prior section 5010, act Aug. 16, 1954, ch. 736, 68A Stat. 603, related to miscellaneous stamp provisions, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

2005—Subsec. (c)(2)(A). Pub. L. 109–59 substituted ''section 5114'' for ''section 5134''.

1990—Subsec. (a)(1), (2). Pub. L. 101–508 substituted ''$13.50'' for ''$12.50''.

1988—Subsec. (c)(2)(B). Pub. L. 100–647 added cl. (ii) and redesignated former cl. (ii) as (iii).

1984—Subsec. (a)(1), (2). Pub. L. 98–369 substituted ''$12.50'' for ''$10.50''.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109–59 effective July 1, 2008, but inapplicable to taxes imposed for periods before such date, see section 11125(c) of Pub. L. 109–59, set out as a note under section 5002 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by 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

Section 5063(b) of Pub. L. 100–647 provided that: ''The amendments made by this section [amending this section] shall apply with respect to distilled spirits withdrawn from bond after the date of the enactment of this Act [Nov. 10, 1988].''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective Oct. 1, 1985, see section 27(d)(1) of Pub. L. 98–369, set out as a note under section 5001 of this title.

EFFECTIVE DATE

Section 6(c) of Pub. L. 96–598 provided that: ''The amendments made by subsections (a) and (b) [enacting this section] shall take effect on January 1, 1980.''

§ 5011. Income tax credit for average cost of carrying excise tax

(a) In general

For purposes of section 38, the amount of the distilled spirits credit for any taxable year is the amount equal to the product of—

(1) in the case of—

(A) any eligible wholesaler, the number of cases of bottled distilled spirits—

(i) which were bottled in the United States, and

(ii) which are purchased by such wholesaler during the taxable year directly from the bottler of such spirits, or

(B) any person which is subject to section 5005 and which is not an eligible wholesaler, the number of cases of bottled distilled spirits which are stored in a warehouse operated by, or on behalf of, a State or political subdivision thereof, or an agency of either, on which title has not passed on an unconditional sale basis, and

(2) the average tax-financing cost per case for the most recent calendar year ending before the beginning of such taxable year.

(b) Eligible wholesaler

For purposes of this section, the term ''eligible wholesaler'' means any person which holds a

permit under the Federal Alcohol Administration Act as a wholesaler of distilled spirits which is not a State or political subdivision thereof, or an agency of either.

(c) Average tax-financing cost

(1) In general

For purposes of this section, the average tax-financing cost per case for any calendar year is the amount of interest which would accrue at the deemed financing rate during a 60-day period on an amount equal to the deemed Federal excise tax per case.

(2) Deemed financing rate

For purposes of paragraph (1), the deemed financing rate for any calendar year is the average of the corporate overpayment rates under paragraph (1) of section 6621(a) (determined without regard to the last sentence of such paragraph) for calendar quarters of such year.

(3) Deemed Federal excise tax per case

For purposes of paragraph (1), the deemed Federal excise tax per case is $25.68.

(d) Other definitions and special rules

For purposes of this section—

(1) Case

The term ''case'' means 12 80-proof 750-milliliter bottles.

(2) Number of cases in lot

The number of cases in any lot of distilled spirits shall be determined by dividing the number of liters in such lot by 9.

(Added Pub. L. 109–59, title XI, § 11126(a), Aug. 10, 2005, 119 Stat. 1957.)

REFERENCES IN TEXT

The Federal Alcohol Administration Act, referred to in subsec. (b), is act Aug. 29, 1935, ch. 814, 49 Stat. 977, as amended, which is classified generally to subchapter I (§ 201 et seq.) of chapter 8 of Title 27, Intoxicating Liquors. For complete classification of this Act to the Code, see section 201 of Title 27 and Tables.

PRIOR PROVISIONS

A prior section 5011, act Aug. 16, 1954, ch. 736, 68A Stat. 604, related to abatement, remission, refund and allowance for loss or destruction of distilled spirits, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5012, act Aug. 16, 1954, ch. 736, 68A Stat. 605, related to drawback on exportation of distilled spirits, prior to the general revision of this chapter by Pub. L. 85–859.

EFFECTIVE DATE

Section applicable to taxable years beginning after Sept. 30, 2005, see section 11126(d) of Pub. L. 109–59, set out as an Effective Date of 2005 Amendments note under section 38 of this title.

[SUBPART B—REPEALED]

[§§ 5021 to 5026. Repealed. Pub. L. 96–39, title VIII, § 803(a), July 26, 1979, 93 Stat. 274]

Section 5021, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1328, provided for imposition of a tax on rectified distilled spirits or wines.

A prior section 5021, act Aug. 16, 1954, ch. 736, 68A Stat. 606, related to imposition and rate of tax, prior to the general revision of this chapter by Pub. L. 85–859.

Section 5022, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1328; amended Pub. L. 86–75, § 3(a)(4), June 30, 1959, 73 Stat. 157; Pub. L. 86–564, title II, § 202(a)(6), June 30, 1960, 74 Stat. 290; Pub. L. 87–72, § 3(a)(6), June 30, 1961, 75 Stat. 193; Pub. L. 87–508, § 3(a)(5), June 28, 1962, 76 Stat. 114; Pub. L. 88–52, § 3(a)(6), June 29, 1963, 77 Stat. 72; Pub. L. 88–348, § 2(a)(6), June 30, 1964, 78 Stat. 237; Pub. L. 89–44, title V, § 501(b), June 21, 1965, 79 Stat. 150, imposed a tax on cordials and liqueurs containing wine.

A prior section 5022, acts Aug. 16, 1954, ch. 736, 68A Stat. 606; Mar. 30, 1955, ch. 18, § 3(a)(6), 69 Stat. 14; Mar. 29, 1956, ch. 115, § 3(a)(6), 70 Stat. 66; Mar. 29, 1957, Pub. L. 85–12, § 3(a)(4), 71 Stat. 9; June 30, 1958, Pub. L. 85–475, § 3(a)(4), 72 Stat. 259, imposed a tax on cordials and liqueurs containing wine, prior to the general revision of this chapter by Pub. L. 85–859.

Section 5023, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1328, imposed a tax on the blending of beverage rums and brandies.

A prior section 5023, act Aug. 16, 1954, ch. 736, 68A Stat. 606, imposed a tax on blending of beverage brandies, prior to the general revision of this chapter by Pub. L. 85–859.

Section 5024, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1328, indicated the sources for the definitions of ''rectifier'', ''products of rectification'', and ''distilled spirits'' and referred to other definitions relating to distilled spirits as well as other definitions of general application to this title.

A prior section 5024, act Aug. 16, 1954, ch. 736, 68A Stat. 607, defined ''rectifier'' and ''products of rectification'', prior to the general revision of this chapter by Pub. L. 85–859.

Section 5025, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1328; amended Pub. L. 89–44, title VIII, § 805(b), (f)(2)–(5), June 21, 1965, 79 Stat. 161; Pub. L. 94–455, title XIX, §§ 1905(a)(4), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1818, 1834; Pub. L. 95–176, §§ 5(b), 6, Nov. 14, 1977, 91 Stat. 1366, 1367, enumerated 12 exemptions from the rectification tax.

A prior section 5025, act Aug. 16, 1954, ch. 736, 68A Stat. 607, related to exemption from rectification tax, prior to the general revision of this chapter by Pub. L. 85–859.

Provisions similar to those comprising section 5025(e)(1), (2), (4) of this title were contained in former sections 5023, 5217(a), and 5306 of this title, act Aug. 16, 1954, ch. 736, 68A Stat. 606, 641, 657, prior to the general revision of this chapter by Pub. L. 85–859.

Section 5026, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1330; Pub. L. 94–455, title XIX, §§ 1905(b)(2)(B), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1822, 1834, related to the determination and collection of the rectification tax.

A prior section 5026, act Aug. 16, 1954, ch. 736, 68A Stat. 608, related to determination and collection of rectification tax, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5027, act Aug. 16, 1954, ch. 736, 68A Stat. 609, related to stamp provisions applicable to rectifiers, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5028, act Aug. 16, 1954, ch. 736, 68A Stat. 609, related to cross references for penalty provisions, prior to the general revision of this chapter by Pub. L. 85–859.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1980, see section 810 of Pub. L. 96–39, set out as an Effective Date of 1979 Amendment note under section 5001 of this title.

SUBPART C—WINES

Sec.
5041. Imposition and rate of tax.
5042. Exemption from tax.
5043. Collection of taxes on wines.
5044. Refund of tax on wine.

Sec.
5045. Cross references.

PRIOR PROVISIONS

A prior subpart C, comprising sections 5041 to 5045, related to wines, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1997—Pub. L. 105–34, title XIV, § 1416(b)(3), Aug. 5, 1997, 111 Stat. 1048, struck out ''unmerchantable'' before ''wine'' in item 5044.

§ 5041. Imposition and rate of tax

(a) Imposition

There is hereby imposed on all wines (including imitation, substandard, or artificial wine, and compounds sold as wine) having not in excess of 24 percent of alcohol by volume, in bond in, produced in, or imported into, the United States, taxes at the rates shown in subsection (b), such taxes to be determined as of the time of removal for consumption or sale. All wines containing more than 24 percent of alcohol by volume shall be classed as distilled spirits and taxed accordingly. Still wines shall include those wines containing not more than 0.392 gram of carbon dioxide per hundred milliliters of wine; except that the Secretary may by regulations prescribe such tolerances to this maximum limitation as may be reasonably necessary in good commercial practice.

(b) Rates of tax

(1) On still wines containing not more than 14 percent of alcohol by volume, $1.07 per wine gallon;

(2) On still wines containing more than 14 percent and not exceeding 21 percent of alcohol by volume, $1.57 per wine gallon;

(3) On still wines containing more than 21 percent and not exceeding 24 percent of alcohol by volume, $3.15 per wine gallon;

(4) On champagne and other sparkling wines, $3.40 per wine gallon;

(5) On artificially carbonated wines, $3.30 per wine gallon; and

(6) On hard cider which is a still wine derived primarily from apples or apple concentrate and water, containing no other fruit product, and containing at least one-half of 1 percent and less than 7 percent alcohol by volume, 22.6 cents per wine gallon.

(c) Credit for small domestic producers

(1) Allowance of credit

Except as provided in paragraph (2), in the case of a person who produces not more than 250,000 wine gallons of wine during the calendar year, there shall be allowed as a credit against any tax imposed by this title (other than chapters 2, 21, and 22) of 90 cents per wine gallon on the 1st 100,000 wine gallons of wine (other than wine described in subsection (b)(4)) which are removed during such year for consumption or sale and which have been produced at qualified facilities in the United States. In the case of wine described in subsection (b)(6), the preceding sentence shall be applied by substituting ''5.6 cents'' for ''90 cents''.

(2) Reduction in credit

The credit allowable by paragraph (1) shall be reduced (but not below zero) by 1 percent for each 1,000 wine gallons of wine produced in excess of 150,000 wine gallons of wine during the calendar year.

(3) Time for determining and allowing credit

The credit allowable by paragraph (1)—

(A) shall be determined at the same time the tax is determined under subsection (a) of this section, and

(B) shall be allowable at the time any tax described in paragraph (1) is payable as if the credit allowable by this subsection constituted a reduction in the rate of such tax.

(4) Controlled groups

Rules similar to rules of section 5051(a)(2)(B) shall apply for purposes of this subsection.

(5) Denial of deduction

Any deduction under subtitle A with respect to any tax against which a credit is allowed under this subsection shall only be for the amount of such tax as reduced by such credit.

(6) Credit for transferee in bond

If—

(A) wine produced by any person would be eligible for any credit under paragraph (1) if removed by such person during the calendar year,

(B) wine produced by such person is removed during such calendar year by any other person (hereafter in this paragraph referred to as the ''transferee'') to whom such wine was transferred in bond and who is liable for the tax imposed by this section with respect to such wine, and

(C) such producer holds title to such wine at the time of its removal and provides to the transferee such information as is necessary to properly determine the transferee's credit under this paragraph,

then, the transferee (and not the producer) shall be allowed the credit under paragraph (1) which would be allowed to the producer if the wine removed by the transferee had been removed by the producer on that date.

(7) Regulations

The Secretary may prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations—

(A) to prevent the credit provided in this subsection from benefiting any person who produces more than 250,000 wine gallons of wine during a calendar year, and

(B) to assure proper reduction of such credit for persons producing more than 150,000 wine gallons of wine during a calendar year.

(d) Wine gallon

For the purpose of this chapter, the term ''wine gallon'' means a United States gallon of liquid measure equivalent to the volume of 231 cubic inches. On lesser quantities the tax shall be paid proportionately (fractions of less than one-tenth gallon being converted to the nearest one-tenth gallon, and five-hundredths gallon

being converted to the next full one-tenth gallon).

(e) Tolerances

Where the Secretary finds that the revenue will not be endangered thereby, he may by regulation prescribe tolerances (but not greater than ½ of 1 percent) for bottles and other containers, and, if such tolerances are prescribed, no assessment shall be made and no tax shall be collected for any excess in any case where the contents of a bottle or other container are within the limit of the applicable tolerance prescribed.

(f) Illegally produced wine

Notwithstanding subsection (a), any wine produced in the United States at any place other than the bonded premises provided for in this chapter shall (except as provided in section 5042 in the case of tax-free production) be subject to tax at the rate prescribed in subsection (b) at the time of production and whether or not removed for consumption or sale.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1331; amended Pub. L. 86–75, § 3(a)(5), June 30, 1959, 73 Stat. 157; Pub. L. 86–564, title II, § 202(a)(7), June 30, 1960, 74 Stat. 290; Pub. L. 87–72, § 3(a)(7), June 30, 1961, 75 Stat. 193; Pub. L. 87–508, § 3(a)(6), June 28, 1962, 76 Stat. 114; Pub. L. 88–52, § 3(a)(7), June 29, 1963, 77 Stat. 72; Pub. L. 88–348, § 2(a)(7), June 30, 1964, 78 Stat. 237; Pub. L. 89–44, title V, § 501(c), title VIII, § 806(a), June 21, 1965, 79 Stat. 150, 162; Pub. L. 93–490, § 6(a), Oct. 26, 1974, 88 Stat. 1468; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 100–647, title VI, § 6101(a), Nov. 10, 1988, 102 Stat. 3710; Pub. L. 101–508, title XI, § 11201(b)(1), (2), Nov. 5, 1990, 104 Stat. 1388–415, 1388–416; Pub. L. 104–188, title I, § 1702(b)(5), Aug. 20, 1996, 110 Stat. 1868; Pub. L. 105–34, title IX, § 908(a), (b), Aug. 5, 1997, 111 Stat. 876; Pub. L. 105–206, title VI, § 6009(a), July 22, 1998, 112 Stat. 812.)

PRIOR PROVISIONS

A prior section 5041, acts Aug. 16, 1954, ch. 736, 68A Stat. 609; Mar. 30, 1955, ch. 18, § 3(a)(7), 69 Stat. 14; Mar. 29, 1956, ch. 115, § 3(a)(7), 70 Stat. 66; Mar. 29, 1957, Pub. L. 85–12, § 3(a)(5), 71 Stat. 9; June 30, 1958, Pub. L. 85–475, § 3(a)(5), 72 Stat. 259, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1998—Subsec. (b)(6). Pub. L. 105–206 inserted ''which is a still wine'' after ''hard cider''.

1997—Subsec. (b)(6). Pub. L. 105–34, § 908(a), added par. (6).

Subsec. (c)(1). Pub. L. 105–34, § 908(b), inserted at end ''In the case of wine described in subsection (b)(6), the preceding sentence shall be applied by substituting '5.6 cents' for '90 cents'.''

1996—Subsec. (c)(6), (7). Pub. L. 104–188 added pars. (6) and (7) and struck out former par. (6) which read as follows:

''(6) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to prevent the credit provided in this subsection from benefiting any person who produces more than 250,000 wine gallons of wine during a calendar year and to assure proper reduction of such credit for persons producing more than 150,000 wine gallons of wine during a calendar year.''

1990—Subsec. (b)(1). Pub. L. 101–508, § 11201(b)(1)(A), substituted ''$1.07'' for ''17 cents''.

Subsec. (b)(2). Pub. L. 101–508, § 11201(b)(1)(B), substituted ''$1.57'' for ''67 cents''.

Subsec. (b)(3). Pub. L. 101–508, § 11201(b)(1)(C), substituted ''$3.15'' for ''$2.25''.

Subsec. (b)(5). Pub. L. 101–508, § 11201(b)(1)(D), substituted ''$3.30'' for ''$2.40''.

Subsecs. (c) to (f). Pub. L. 101–508, § 11201(b)(2), added subsec. (c) and redesignated former subsecs. (c) to (e) as (d) to (f), respectively.

1988—Subsecs. (d), (e). Pub. L. 100–647 added subsec. (d) and redesignated former subsec. (d) as (e).

1976—Subsec. (a). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

1974—Subsec. (a). Pub. L. 93–490 substituted ''0.392'' for ''0.277''.

1965—Subsec. (a). Pub. L. 89–44, § 806(a), substituted ''0.277'' for ''0.256''.

Subsec. (b). Pub. L. 89–44, § 501(c)(1)–(5), struck out provisions at end of each par. setting out a specified reduced rate to be applied on and after July 1, 1965.

1964—Subsec. (b). Pub. L. 88–348 substituted ''July 1, 1965'' for ''July 1, 1964'' in five places.

1963—Subsec. (b). Pub. L. 88–52 substituted ''July 1, 1964'' for ''July 1, 1963'' in five places.

1962—Subsec. (b). Pub. L. 87–508 substituted ''July 1, 1963'' for ''July 1, 1962'' in five places.

1961—Subsec. (b). Pub. L. 87–72 substituted ''July 1, 1962'' for ''July 1, 1961'' in five places.

1960—Subsec. (b). Pub. L. 86–564 substituted ''July 1, 1961'' for ''July 1, 1960'' in five places.

1959—Subsec. (b). Pub. L. 86–75 substituted ''July 1, 1960'' for ''July 1, 1959'' in five places.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 908(c) of Pub. L. 105–34 provided that: ''The amendments made by this section [amending this section] shall take effect on October 1, 1997.''

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 1990 AMENDMENT

Amendment by 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

Section 6101(b) of Pub. L. 100–647 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to wine removed after December 31, 1988.''

EFFECTIVE DATE OF 1974 AMENDMENT

Section 6(b) of Pub. L. 93–490 provided that: ''The amendment made by this section [amending this section] shall take effect on the first day of the first calendar month which begins more than 90 days after the date of enactment of this Act [Oct. 26, 1974].''

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 501(c) of Pub. L. 89–44 applicable on and after July 1, 1965, see section 701(d) of Pub. L. 89–44, set out as a note under section 5701 of this title.

Section 806(d)(1) of Pub. L. 89–44 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on July 1, 1965.''

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.

FLOOR STOCKS TAXES ON DISTILLED SPIRITS, WINE, AND BEER

Imposition of tax on wine, exception for small domestic producers, exception for certain small wholesale or retail dealers, credit against tax, liability for tax and method of payment, controlled groups, other laws applicable, and definitions, see section 11201(e) of Pub. L. 101–508, set out as a note under section 5001 of this title.

§ 5042. Exemption from tax

(a) Tax-free production

(1) Cider

Subject to regulations prescribed by the Secretary, the noneffervescent product of the normal alcoholic fermentation of apple juice only, which is produced at a place other than a bonded wine cellar and without the use of preservative methods or materials, and which is sold or offered for sale as cider and not as wine or as a substitute for wine, shall not be subject to tax as wine nor to the provisions of subchapter F.

(2) Wine for personal or family use

Subject to regulations prescribed by the Secretary—

(A) Exemption

Any adult may, without payment of tax, produce wine for personal or family use and not for sale.

(B) Limitation

The aggregate amount of wine exempt from tax under this paragraph with respect to any household shall not exceed—

(i) 200 gallons per calendar year if there are 2 or more adults in such household, or

(ii) 100 gallons per calendar year if there is only 1 adult in such household.

(C) Adults

For purposes of this paragraph, the term ''adult'' means an individual who has attained 18 years of age, or the minimum age (if any) established by law applicable in the locality in which the household is situated at which wine may be sold to individuals, whichever is greater.

(3) Experimental wine

Subject to regulations prescribed by the Secretary, any scientific university, college of learning, or institution of scientific research may produce, receive, blend, treat, and store wine, without payment of tax, for experimental or research use but not for consumption (other than organoleptical tests) or sale, and may receive such wine spirits without payment of tax as may be necessary for such production.

(b) Cross references

(1) For provisions relating to exemption of tax on losses of wine (including losses by theft or authorized destruction), see section 5370.

(2) For provisions exempting from tax samples of wine, see section 5372.

(3) For provisions authorizing withdrawals of wine free of tax or without payment of tax, see section 5362.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1331; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95–458, § 2(a), Oct. 14, 1978, 92 Stat. 1255.)

PRIOR PROVISIONS

A prior section 5042, act Aug. 16, 1954, ch. 736, 68A Stat. 610, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1978—Subsec. (a)(2). Pub. L. 95–458 substituted in heading ''Wine for personal or family use'' for ''Family wine'' and in text provision permitting an adult to produce 200 gallons of wine per calendar year if there are 2 or more adults in the household or 100 gallons of wine per calendar year if there is one adult in the household for provision which permitted the duly registered head of any family to produce an amount of wine not exceeding 200 gallons of wine per annum.

1976—Subsec. (a)(1) to (3). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 2(c) of Pub. L. 95–458 provided that: ''The amendments made by this section [amending this section and sections 5051, 5053, 5054, 5092, 5222, and 5674 of this title] shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act [Oct. 14, 1978].''

§ 5043. Collection of taxes on wines

(a) Persons liable for payment

The taxes on wine provided for in this subpart shall be paid—

(1) Bonded wine cellars

In the case of wines removed from any bonded wine cellar, by the proprietor of such bonded wine cellar; except that—

(A) in the case of any transfer of wine in bond as authorized under the provisions of section 5362(b), the liability for payment of the tax shall become the liability of the transferee from the time of removal of the wine from the transferor's premises, and the transferor shall thereupon be relieved of such liability; and

(B) in the case of any wine withdrawn by a person other than such proprietor without payment of tax as authorized under the provisions of section 5362(c), the liability for payment of the tax shall become the liability of such person from the time of the removal of the wine from the bonded wine cellar, and such proprietor shall thereupon be relieved of such liability.

(2) Foreign wine

In the case of foreign wines which are not transferred to a bonded wine cellar free of tax under section 5364, by the importer thereof.

(3) Other wines

Immediately, in the case of any wine produced, imported, received, removed, or possessed otherwise than as authorized by law, by any person producing, importing, receiving, removing, or possessing such wine; and all such persons shall be jointly and severally liable for such tax with each other as well as with any proprietor, transferee, or importer who may be liable for the tax under this subsection.

(b) Payment of tax

The taxes on wines shall be paid in accordance with section 5061.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1332; amended Pub. L. 94–455, title XIX, § 1905(b)(2)(C), Oct. 4, 1976, 90 Stat. 1822; Pub. L. 96–39, title VIII, § 807(a)(8), July 26, 1979, 93 Stat. 281; Pub. L. 105–206, title VI, § 6014(b)(1), July 22, 1998, 112 Stat. 820.)

PRIOR PROVISIONS

A prior section 5043, act Aug. 16, 1954, ch. 736, 68A Stat. 610, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105–206 inserted ''which are not transferred to a bonded wine cellar free of tax under section 5364'' after ''foreign wines''.

1979—Subsec. (a)(1)(A). Pub. L. 96–39 struck out ''between bonded wine cellars'' after ''transfer of wine in bond''.

1976—Subsec. (b). Pub. L. 94–455 substituted ''The taxes'' for ''Except as provided in subsection (a)(3), the taxes''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates (see section 1422(c) of Pub. L. 105–34 set out as an Effective Date note under section 5364 of this title), see section 6024 of Pub. L. 105–206, set out as a note under section 1 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 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.

§ 5044. Refund of tax on wine

(a) General

In the case of any wine removed from a bonded wine cellar and returned to bond under section 5361—

(1) any tax imposed by section 5041 shall, if paid, be refunded or credited, without interest, to the proprietor of the bonded wine cellar to which such wine is delivered; or

(2) if any tax so imposed has not been paid, the person liable for the tax may be relieved of liability therefor,

under such regulations as the Secretary may prescribe. Such regulations may provide that claim for refund or credit under paragraph (1), or relief from liability under paragraph (2), may be made only with respect to minimum quantities specified in such regulations. The burden of proof in all such cases shall be on the applicant.

(b) Date of filing

No claim under subsection (a) shall be allowed unless filed within 6 months after the date of the return of the wine to bond.

(c) Status of wine returned to bond

All provisions of this chapter applicable to wine in bond on the premises of a bonded wine cellar and to removals thereof shall be applicable to wine returned to bond under the provisions of this section.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1332; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105–34, title XIV, § 1416(a), (b)(2), Aug. 5, 1997, 111 Stat. 1048; Pub. L. 105–206, title VI, § 6014(b)(2), July 22, 1998, 112 Stat. 820.)

PRIOR PROVISIONS

A prior section 5044, act Aug. 16, 1954, ch. 736, 68A Stat. 611, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–206 substituted ''removed from a bonded wine cellar'' for ''produced in the United States'' in introductory provisions.

1997—Pub. L. 105–34, § 1416(b)(2), struck out ''unmerchantable'' after ''tax on'' in section catchline.

Subsec. (a). Pub. L. 105–34, § 1416(a), struck out ''as unmerchantable'' after ''to bond'' in introductory provisions.

1976—Subsec. (a). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1416(c) of Pub. L. 105–34 provided that: ''The amendments made by this section [amending this section and section 5361 of this title] shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act [Aug. 5, 1997].''

§ 5045. Cross references

For provisions relating to the establishment and operation of wineries, see subchapter F, and for penalties pertaining to wine, see subchapter J.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1333.)

PRIOR PROVISIONS

A prior section 5045, act Aug. 16, 1954, ch. 736, 68A Stat. 611, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

SUBPART D—BEER

Sec.
5051. Imposition and rate of tax.
5052. Definitions.
5053. Exemptions.
5054. Determination and collection of tax on beer.
5055. Drawback of tax.
5056. Refund and credit of tax, or relief from liability.

PRIOR PROVISIONS

A prior subpart D, comprising sections 5051 to 5057 of this title, related to beer, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

§ 5051. Imposition and rate of tax

(a) Rate of tax

(1) In general

A tax is hereby imposed on all beer brewed or produced, and removed for consumption or sale, within the United States, or imported into the United States. Except as provided in paragraph (2), the rate of such tax shall be $18 for every barrel containing not more than 31 gallons and at a like rate for any other quantity or for fractional parts of a barrel.

(2) Reduced rate for certain domestic production

(A) $7 a barrel rate

In the case of a brewer who produces not more than 2,000,000 barrels of beer during the calendar year, the per barrel rate of the tax imposed by this section shall be $7 on the first 60,000 barrels of beer which are removed in such year for consumption or sale and which have been brewed or produced by such brewer at qualified breweries in the United States.

(B) Controlled groups

In the case of a controlled group, the 2,000,000 barrel quantity specified in subparagraph (A) shall be applied to the controlled group, and the 60,000 barrel quantity specified in subparagraph (A) shall be apportioned among the brewers who are component members of such group in such manner as the Secretary or his delegate shall by regulations prescribed. For purposes of the preceding sentence, the term ''controlled group'' has the meaning assigned to it by subsection (a) of section 1563, except that for such purposes the phrase ''more than 50 percent'' shall be substituted for the phrase ''at least 80 percent'' in each place it appears in such subsection. Under regulations prescribed by the Secretary or his delegate, principles similar to the principles of the preceding two sentences shall be applied to a group of brewers under common control where one or more of the brewers is not a corporation.

(C) Regulations

The Secretary may prescribe such regulations as may be necessary to prevent the reduced rates provided in this paragraph from benefiting any person who produces more than 2,000,000 barrels of beer during a calendar year.

(3) Tolerances

Where the Secretary or his delegate finds that the revenue will not be endangered thereby, he may by regulations prescribe tolerances for barrels and fractional parts of barrels, and, if such tolerances are prescribed, no assessment shall be made and no tax shall be collected for any excess in any case where the contents of a barrel or a fractional part of a barrel are within the limit of the applicable tolerance prescribed.

(b) Assessment on materials used in production in case of fraud

Nothing contained in this subpart or subchapter G shall be construed to authorize an assessment on the quantity of materials used in producing or purchased for the purpose of producing beer, nor shall the quantity of materials so used or purchased be evidence, for the purpose of taxation, of the quantity of beer produced; but the tax on all beer shall be paid as provided in section 5054, and not otherwise; except that this subsection shall not apply to cases of fraud, and nothing in this subsection shall have the effect to change the rules of law respecting evidence in any prosecution or suit.

(c) Illegally produced beer

The production of any beer at any place in the United States shall be subject to tax at the rate prescribed in subsection (a) and such tax shall be due and payable as provided in section 5054(a)(3) unless—

(1) such beer is produced in a brewery qualified under the provisions of subchapter G, or

(2) such production is exempt from tax under section 5053(e) (relating to beer for personal or family use).

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1333; amended Pub. L. 86–75, § 3(a)(6), June 30, 1959, 73 Stat. 157; Pub. L. 86–564, title II, § 202(a)(8), June 30, 1960, 74 Stat. 290; Pub. L. 87–72, § 3(a)(8), June 30, 1961, 75 Stat. 193; Pub. L. 87–508, § 3(a)(7), June 28, 1962, 76 Stat. 114; Pub. L. 88–52, § 3(a)(8), June 29, 1963, 77 Stat. 72; Pub. L. 88–348, § 2(a)(8), June 30, 1964, 78 Stat. 237; Pub. L. 89–44, title V, § 501(d), June 21, 1965, 79 Stat. 150; Pub. L. 94–529, § 1, Oct. 17, 1976, 90 Stat. 2485; Pub. L. 95–458, § 2(b)(2)(A), Oct. 14, 1978, 92 Stat. 1256; Pub. L. 101–508, title XI, § 11201(c), Nov. 5, 1990, 104 Stat. 1388–416.)

PRIOR PROVISIONS

A prior section 5051, act Aug. 16, 1954, ch. 736, 68A Stat. 611, as amended by acts Mar. 30, 1955, ch. 18, § 3(a)(8), 69 Stat. 14; Mar. 29, 1956, ch. 115, § 3(a)(8), 70 Stat. 66; Mar. 29, 1957, Pub. L. 85–12, § 3(a)(6), 71 Stat. 9; June 30, 1958, Pub. L. 85–475, § 3(a)(6), 72 Stat. 259, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1990—Subsec. (a)(1). Pub. L. 101–508, § 11201(c)(1), substituted ''$18'' for ''$9''.

Subsec. (a)(2)(C). Pub. L. 101–508, § 11201(c)(2), added subpar. (C).

1978—Subsec. (c). Pub. L. 95–458 added subsec. (c).

1976—Subsec. (a). Pub. L. 94–529 reduced the excise tax on beer for small brewers to $7 per barrel on the first 60,000 barrels produced in the United States and removed for sale or consumption or sale during the calendar year, the reduced rate to be applicable only to brewers producing no more than 2 million barrels of beer in a calendar year, and inserted provision that if several brewers are members of a controlled group, the 2–million barrel limit is to be applied to the controlled group and the 60,000–barrel limit is to be apportioned among the members of the controlled group in accordance with Treasury Department regulations promulgated by the Secretary or his delegate.

1965—Subsec. (a). Pub. L. 89–44 struck out sentence providing for the imposition on and after July 1, 1965, of a tax of $8 in lieu of the tax imposed by the section.

1964—Subsec. (a). Pub. L. 88–348 substituted ''July 1, 1965'' for ''July 1, 1964''.

1963—Subsec. (a). Pub. L. 88–52 substituted ''July 1, 1964'' for ''July 1, 1963''.

1962—Subsec. (a). Pub. L. 87–508 substituted ''July 1, 1963'' for ''July 1, 1962''.

1961—Subsec. (a). Pub. L. 87–72 substituted ''July 1, 1962'' for ''July 1, 1961''.

1960—Subsec. (a). Pub. L. 86–564 substituted ''July 1, 1961'' for ''July 1, 1960''.

1959—Subsec. (a). Pub. L. 86–75 substituted ''July 1, 1960'' for ''July 1, 1959''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by 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 1978 AMENDMENT

Amendment by Pub. L. 95–458 effective on first day of first calendar month beginning more than 90 days after Oct. 14, 1978, see section 2(c) of Pub. L. 95–458, set out as a note under section 5042 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 2 of Pub. L. 94–529 provided that: ''The amendment made by the first section of this Act [amending this section] shall take effect on the first day of the first calendar year which begins after the date of the enactment of this Act [Oct. 17, 1976].''

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–44 applicable on and after July 1, 1965, see section 701(d) of Pub. L. 89–44, set out as a note under section 5701 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.

FLOOR STOCKS TAXES ON DISTILLED SPIRITS, WINE, AND BEER

Imposition of tax on beer, exception for small domestic producers, exception for certain small wholesale or retail dealers, credit against tax, liability for tax and method of payment, controlled groups, other laws applicable, and definitions, see section 11201(e) of Pub. L. 101–508, set out as a note under section 5001 of this title.

§ 5052. Definitions

(a) Beer

For purposes of this chapter (except when used with reference to distilling or distilling material) the term beer means beer, ale, porter, stout, and other similar fermented beverages (including sake or similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor.

(b) Gallon

For purposes of this subpart, the term gallon means the liquid measure containing 231 cubic inches.

(c) Removed for consumption of sale

Except as provided for in the case of removal of beer without payment of tax, the term ''removed for consumption or sale'', for the purposes of this subpart means—

(1) Sale of beer

The sale and transfer of possession of beer for consumption at the brewery; or

(2) Removals

Any removal of beer from the brewery.

(d) Brewer

For purposes of this chapter, the term ''brewer'' means any person who brews beer or produces beer for sale. Such term shall not include any person who produces only beer exempt from tax under section 5053(e).

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1333; amended Pub. L. 91–673, § 1(b), Jan. 12, 1971, 84 Stat. 2056; Pub. L. 109–59, title XI, § 11125(b)(15), Aug. 10, 2005, 119 Stat. 1956.)

PRIOR PROVISIONS

A prior section 5052, act Aug. 16, 1954, ch. 736, 68A Stat. 612, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

2005—Subsec. (d). Pub. L. 109–59 amended subsec. (d) generally. Prior to amendment, text read as follows: ''For definition of brewer, see section 5092.''

1971—Subsec. (c)(2). Pub. L. 91–673 struck out proviso that removal of beer shall not include beer returned to the brewery on the same day such beer is removed from the brewery.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109–59 effective July 1, 2008, but inapplicable to taxes imposed for periods before such date, see section 11125(c) of Pub. L. 109–59, set out as a note under section 5002 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91–673 effective on first day of first calendar month which begins more than 90 days after Jan. 12, 1971, see section 5 of Pub. L. 91–673, set out as a note under section 5056 of this title.

§ 5053. Exemptions

(a) Removals for export

Beer may be removed from the brewery, without payment of tax, for export, in such containers and under such regulations, and on the giving of such notices, entries, and bonds and other security, as the Secretary may by regulations prescribe.

(b) Removals when unfit for beverage use

When beer has become sour or damaged, so as to be incapable of use as such, a brewer may remove the same from his brewery without payment of tax, for manufacturing purposes, under such regulations as the Secretary may prescribe.

(c) Removals for laboratory analysis

Beer may be removed from the brewery, without payment of tax, for laboratory analysis, subject to such limitations and under such regulations as the Secretary may prescribe.

(d) Removals for research, development, or testing

Under such conditions and regulations as the Secretary may prescribe, beer may be removed from the brewery without payment of tax for use in research, development, or testing (other than consumer testing or other market analysis) of processes, systems, materials, or equipment relating to beer or brewery operations.

(e) Beer for personal or family use

Subject to regulation prescribed by the Secretary, any adult may, without payment of tax, produce beer for personal or family use and not for sale. The aggregate amount of beer exempt

from tax under this subsection with respect to any household shall not exceed—

(1) 200 gallons per calendar year if there are 2 or more adults in such household, or

(2) 100 gallons per calendar year if there is only 1 adult in such household.

For purposes of this subsection, the term ''adult'' means an individual who has attained 18 years of age, or the minimum age (if any) established by law applicable in the locality in which the household is situated at which beer may be sold to individuals, whichever is greater.

(f) Removal for use as distilling material

Subject to such regulations as the Secretary may prescribe, beer may be removed from a brewery without payment of tax to any distilled spirits plant for use as distilling material.

(g) Removals for use of foreign embassies, legations, etc.

(1) In general

Subject to such regulations as the Secretary may prescribe—

(A) beer may be withdrawn from the brewery without payment of tax for transfer to any customs bonded warehouse for entry pending withdrawal therefrom as provided in subparagraph (B), and

(B) beer entered into any customs bonded warehouse under subparagraph (A) may be withdrawn for consumption in the United States by, and for the official and family use of, such foreign governments, organizations, and individuals as are entitled to withdraw imported beer from such warehouses free of tax.

Beer transferred to any customs bonded warehouse under subparagraph (A) shall be entered, stored, and accounted for in such warehouse under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported beer.

(2) Other rules to apply

Rules similar to the rules of paragraphs (2) and (3) of section 5362(e) shall apply for purposes of this subsection.

(h) Removals for destruction

Subject to such regulations as the Secretary may prescribe, beer may be removed from the brewery without payment of tax for destruction.

(i) Removal as supplies for certain vessels and aircraft

For exemption as to supplies for certain vessels and aircraft, see section 309 of the Tariff Act of 1930, as amended (19 U.S.C. 1309).

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1334; amended Pub. L. 89–44, title VIII, § 807(b), June 21, 1965, 79 Stat. 164; Pub. L. 91–673, § 2, Jan. 12, 1971, 84 Stat. 2056; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95–458, § 2(b)(1), Oct. 14, 1978, 92 Stat. 1255; Pub. L. 105–34, title XIV, §§ 1414(b), 1418(a), 1419(a), Aug. 5, 1997, 111 Stat. 1047–1049.)

PRIOR PROVISIONS

A prior section 5053, act Aug. 16, 1954, ch. 736, 68A Stat. 612, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1997—Subsec. (f). Pub. L. 105–34, § 1414(b), added subsec. (f). Former subsec. (f) redesignated (i).

Subsec. (g). Pub. L. 105–34, § 1418(a), added subsec. (g).

Subsec. (h). Pub. L. 105–34, § 1419(a), added subsec. (h).

Subsec. (i). Pub. L. 105–34, § 1414(b), redesignated subsec. (f) as (i).

1978—Subsecs. (e), (f). Pub. L. 95–458 added subsec. (e) and redesignated former subsec. (e) as (f).

1976—Subsecs. (a) to (d). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1971—Subsecs. (d), (e). Pub. L. 91–673 added subsec. (d) and redesignated former subsec. (d) as (e).

1965—Subsec. (a). Pub. L. 89–44 struck out ''to a foreign country'' after ''export''.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1414(d) of Pub. L. 105–34 provided that: ''The amendments made by this section [amending this section and sections 5056 and 5222 of this title] shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act [Aug. 5, 1997].''

Section 1418(b) of Pub. L. 105–34 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act [Aug. 5, 1997].''

Section 1419(b) of Pub. L. 105–34 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act [Aug. 5, 1997].''

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–458 effective on first day of first calendar month beginning more than 90 days after Oct. 14, 1978, see section 2(c) of Pub. L. 95–458, set out as a note under section 5042 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91–673 effective on first day of first calendar month which begins more than 90 days after Jan. 12, 1971, see section 5 of Pub. L. 91–673, set out as a note under section 5056 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–44 effective July 1, 1965, see section 807(c) of Pub. L. 89–44, set out as a note under section 5002 of this title.

§ 5054. Determination and collection of tax on beer

(a) Time of determination

(1) Beer produced in the United States; certain imported beer

Except as provided in paragraph (3), the tax imposed by section 5051 on beer produced in the United States, or imported into the United States and transferred to a brewery free of tax under section 5418, shall be determined at the time it is removed for consumption or sale, and shall be paid by the brewer thereof in accordance with section 5061.

(2) Beer imported into the United States

Except as provided in paragraph (4), the tax imposed by section 5051 on beer imported into the United States and not transferred to a brewery free of tax under section 5418 shall be determined at the time of the importation thereof, or, if entered for warehousing, at the time of removal from the 1st such warehouse.

(3) Illegally produced beer

The tax on any beer produced in the United States shall be due and payable immediately upon production unless—

(A) such beer is produced in a brewery qualified under the provisions of subchapter G, or

(B) such production is exempt from tax under sections[1] 5053(e) (relating to beer for personal or family use).

(4) Unlawfully imported beer

Beer smuggled or brought into the United States unlawfully shall, for purposes of this chapter, be held to be imported into the United States, and the internal revenue tax shall be due and payable at the time of such importation.

(b) Tax on returned beer

Beer which has been removed for consumption or sale and is thereafter returned to the brewery shall be subject to all provisions of this chapter relating to beer prior to removal for consumption or sale, including the tax imposed by section 5051. The tax on any such returned beer which is again removed for consumption or sale shall be determined and paid without respect to the tax which was determined at the time of prior removal of the beer for consumption or sale.

(c) Applicability of other provisions of law

All administrative and penal provisions of this title, insofar as applicable, shall apply to any tax imposed by section 5051.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1334; amended Pub. L. 94–455, title XIX, §§ 1905(a)(5), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1818, 1834; Pub. L. 95–458, § 2(b)(2)(B), Oct. 14, 1978, 92 Stat. 1256; Pub. L. 99–509, title VIII, § 8011(b)(2), Oct. 21, 1986, 100 Stat. 1953; Pub. L. 100–647, title I, § 1018(u)(19), Nov. 10, 1988, 102 Stat. 3591; Pub. L. 105–206, title VI, § 6014(a)(1), (2), July 22, 1998, 112 Stat. 820.)

PRIOR PROVISIONS

A prior section 5054, act Aug. 16, 1954, ch. 736, 68A Stat. 613, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

Provisions similar to those comprising subsecs. (a)(1), (2) and (b) to (d) of this section were contained in prior sections 5055 and 5057(a), act Aug. 16, 1954, ch. 736, 68A Stat. 613, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–206, § 6014(a)(1), in heading inserted "; certain imported beer" after "United States" and in text inserted ", or imported into the United States and transferred to a brewery free of tax under section 5418," after "United States".

Subsec. (a)(2). Pub. L. 105–206, § 6014(a)(2), inserted "and not transferred to a brewery free of tax under section 5418" after "United States".

1988—Subsec. (a)(2). Pub. L. 100–647 added period at end.

1986—Subsec. (a)(2). Pub. L. 99–509 substituted "if entered for warehousing, at the time of removal from the 1st such warehouse" for "if entered into customs custody, at the time of removal from such custody, and shall be paid under such regulations as the Secretary shall prescribe.".

1978—Subsec. (a)(3). Pub. L. 95–458 inserted provision excluding from tax the beer exempt from tax under section 5053(e).

1976—Subsec. (a)(2). Pub. L. 94–455, § 1906(b)(13)(A), struck out "or his delegate" after "Secretary".

Subsecs. (c), (d). Pub. L. 94–455, § 1905(a)(5), redesignated subsec. (d) as (c) and struck out former subsec. (c) respecting stamps or other devices as evidence of payment of tax.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates (see section 1421(c) of Pub. L. 105–34 set out as an Effective Date note under section 5418 of this title), see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99–514, to which such amendment relates, see section 1019(a) of Pub. L. 100–647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–509 applicable to articles imported, entered for warehousing, or brought into the United States or a foreign trade zone after Dec. 15, 1986, see section 8011(c) of Pub. L. 99–509, set out as a note under section 5061 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–458 effective on first day of first calendar month beginning more than 90 days after Oct. 14, 1978, see section 2(c) of Pub. L. 95–458, set out as a note under section 5042 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(a)(5) 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.

§ 5055. Drawback of tax

On the exportation of beer, brewed or produced in the United States, the brewer thereof shall be allowed a drawback equal in amount to the tax paid on such beer if there is such proof of exportation as the Secretary may by regulations require. For the purpose of this section, exportation shall include delivery for use as supplies on the vessels and aircraft described in section 309 of the Tariff Act of 1930, as amended (19 U.S.C. 1309).

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1335; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105–34, title XIV, § 1420(a), Aug. 5, 1997, 111 Stat. 1049.)

PRIOR PROVISIONS

A prior section 5055, act Aug. 16, 1954, ch. 736, 68A Stat. 613, related to "determination and collection of tax on beer", prior to the general revision of this chapter by Pub. L. 85–859. See section 5054(a)(1), (2), (c), (d) of this title.

Provisions similar to those comprising this section were contained in prior section 5056, act Aug. 16, 1954, ch. 736, 68A Stat. 613, prior to the general revision of this chapter by Pub. L. 85–859.

[1] So in original. Probably should be "section".

AMENDMENTS

1997—Pub. L. 105–34 substituted ''paid on such beer if there is such proof of exportation as the Secretary may by regulations require.'' for ''found to have been paid on such beer, to be paid on submission of such evidence, records and certificates indicating exportation, as the Secretary may by regulations prescribe.''

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1420(b) of Pub. L. 105–34 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act [Aug. 5, 1997].''

§ 5056. Refund and credit of tax, or relief from liability

(a) Beer returned or voluntarily destroyed

Any tax paid by any brewer on beer removed for consumption or sale may be refunded or credited to the brewer, without interest, or if the tax has not been paid, the brewer may be relieved of liability therefor, under such regulations as the Secretary may prescribe, if such beer is returned to any brewery of the brewer or is destroyed under the supervision required by such regulations. In determining the amount of tax due on beer removed on any day, the quantity of beer returned to the same brewery from which removed shall be allowed, under such regulations as the Secretary may prescribe, as an offset against or deduction from the total quantity of beer removed from that brewery on the day of such return.

(b) Beer lost by fire, theft, casualty, or act of God

Subject to regulations prescribed by the Secretary, the tax paid by any brewer on beer removed for consumption or sale may be refunded or credited to the brewer, without interest, or if the tax has not been paid, the brewer may be relieved of liability therefor, if such beer is lost, whether by theft or otherwise, or is destroyed or otherwise rendered unmerchantable by fire, casualty, or act of God before the transfer of title thereto to any other person. In any case in which beer is lost or destroyed, whether by theft or otherwise, the Secretary may require the brewer to file a claim for relief from the tax and submit proof as to the cause of such loss. In every case where it appears that the loss was by theft, the first sentence shall not apply unless the brewer establishes to the satisfaction of the Secretary that such theft occurred before removal from the brewery and occurred without connivance, collusion, fraud, or negligence on the part of the brewer, consignor, consignee, bailee, or carrier, or the employees or agents of any of them.

(c) Beer received at a distilled spirits plant

Any tax paid by any brewer on beer removed for consumption or sale may be refunded or credited to the brewer, without interest, or if the tax has not been paid, the brewer may be relieved of liability therefor, under regulations as the Secretary may prescribe, if such beer is received on the bonded premises of a distilled spirits plant pursuant to the provisions of section 5222(b)(2), for use in the production of distilled spirits.

(d) Limitations

No claim under this section shall be allowed (1) unless filed within 6 months after the date of the return, loss, destruction, rendering unmerchantable, or receipt on the bonded premises of a distilled spirits plant or (2) if the claimant was indemnified by insurance or otherwise in respect of the tax.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1335; amended Pub. L. 91–673, § 1(a), Jan. 12, 1971, 84 Stat. 2056; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105–34, title XIV, § 1414(c), Aug. 5, 1997, 111 Stat. 1047; Pub. L. 105–206, title VI, § 6014(a)(3), July 22, 1998, 112 Stat. 820.)

PRIOR PROVISIONS

A prior section 5056, act Aug. 16, 1954, ch. 736, 68A Stat. 613, related to ''drawback of tax'' prior to the general revision of this chapter by Pub. L. 85–859. See section 5055 of this title.

A prior section 5057, act Aug. 16, 1954, ch. 736, 68A Stat. 613, related to refund and credit of tax or relief from liability, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1998—Subsecs. (a) to (c). Pub. L. 105–206 substituted ''removed for consumption or sale'' for ''produced in the United States''.

1997—Subsec. (c). Pub. L. 105–34, § 1414(c)(1), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 105–34 redesignated subsec. (c) as (d) and substituted ''rendering unmerchantable, or receipt on the bonded premises of a distilled spirits plant'' for ''or rendering unmerchantable''.

1976—Subsecs. (a), (b). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1971—Subsec. (a). Pub. L. 91–673 inserted provision permitting credit or refund of tax if the beer is returned to any brewery of the brewer who paid the tax, and provided for offset or deduction against amount of beer removed from the brewery on the day of return if the beer is returned to the same brewery from which it was withdrawn.

Subsec. (b). Pub. L. 91–673 inserted provisions for credit or refund or relief from liability of tax when the beer is lost by theft or otherwise or rendered unmerchantable by fire, casualty or act of God, before the transfer of title to any other party, and required the brewer to file claim for relief from the tax and submit proof of the cause of the loss, and in the case of theft, to further prove that such theft occurred before removal from the brewery and without connivance, collusion, fraud, or negligence on the part of the brewer, consignor, consignee, bailee, or carrier, or the employees or agents of any of them.

Subsec. (c). Pub. L. 91–673 substantially reenacted subsec. (c) to reflect changes in subsec. (b).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 effective on the 1st day of the 1st calendar quarter that begins at least 180 days after Aug. 5, 1997, see section 1414(d) of Pub. L. 105–34, set out as a note under section 5053 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 5 of Pub. L. 91–673 provided that: ''The amendments made by the first four sections of this Act

[enacting section 5417 of this title and amending this section and sections 5052, 5053, 5401, 5402, 5411, 5412, and 5416 of this title] shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act [Jan. 12, 1971].''

SUBPART E—GENERAL PROVISIONS

Sec.
5061. Method of collecting tax.
5062. Refund and drawback in case of exportation.
[5063. Repealed.]
5064. Losses resulting from disaster, vandalism, or malicious mischief.
5065. Territorial extent of law.
5066. Distilled spirits for use of foreign embassies, legations, etc.
5067. Cross reference.

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

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 semimonthly 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 semimonthly 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 semimonthly 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

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) under bond for deferred

payment 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.

(B) No application after limit exceeded

Subparagraph (A) 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.

(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 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 ''2/3'' for ''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 nonincorporated 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.)

PRIOR PROVISIONS

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

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.

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.

Section 712(e) of Pub. L. 103–465 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

Section 2003(b)(2) of Pub. L. 100–647 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.

Section 8011(c) of Pub. L. 99–509, 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

Section 808 of Pub. L. 96–39, 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 controlled 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 drawback of internal revenue tax on spirits and wines eligible for drawback under this subsection, including the requirements of such notices, bonds, bills of lading, and other evidence indicating payment or determination of tax and exportation as shall be deemed necessary.

(c) Exportation of imported liquors

(1) Allowance of tax

Upon the exportation of imported distilled spirits, wines, and beer upon which the duties and internal revenue taxes have been paid or determined incident to their importation into the United States, and which have been found after entry to be unmerchantable or not to conform to sample or specifications, and which have been returned to customs custody, the Secretary shall, under such regulations as he shall prescribe, refund, remit, abate, or credit, without interest, to the importer thereof, the full amount of the internal revenue taxes paid or determined with respect to such distilled spirits, wines, or beer.

(2) Destruction in lieu of exportation

At the option of the importer, such imported distilled spirits, wines, and beer, after return to customs custody, may be destroyed under customs supervision and the importer thereof granted relief in the same manner and to the same extent as provided in this subsection upon exportation.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1336; amended Pub. L. 88–539, § 1, Aug. 31, 1964, 78 Stat. 746; Pub. L. 89–44, title VIII, § 805(f)(6), June 21, 1965, 79 Stat. 161; Pub. L. 90–630, § 2(a), Oct. 22, 1968, 82 Stat. 1328; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95–176, § 1, Nov. 14, 1977, 91 Stat. 1363; Pub. L. 98–369, div. A, title IV, § 454(c)(1), July 18, 1984, 98 Stat. 820.)

PRIOR PROVISIONS

A prior section 5062, act Aug. 16, 1954, ch. 736, 68A Stat. 614, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1984—Subsec. (b). Pub. L. 98–369 substituted ''have been marked'' for ''have been stamped or restamped, and marked''.

1977—Subsec. (b). Pub. L. 95–176 substituted in first sentence ''manufactured, produced, bottled, or packaged in casks or other bulk containers'' and ''other bulk container'' for ''manufactured or produced'' and ''package'' and in last sentence ''spirits and wines eligible for drawback under this subsection, including the requirements'' for ''domestic distilled spirits and wines, including the requirement''.

1976—Subsecs. (a), (b), (c)(1). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1968—Subsec. (b). Pub. L. 90–630 permitted, under Treasury regulations, drawback of the tax where the stamping, restamping, or marking is done after the spirits have been removed from the original bottling plant.

1965—Subsec. (c)(1). Pub. L. 89–44 struck out ''within six months of their release therefrom'' after ''customs custody''.

1964—Subsec. (c). Pub. L. 88–539 added subsec. (c).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective July 1, 1985, see section 456(b) of Pub. L. 98–369, set out as an Effective Date note under section 5101 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–176 effective on first day of first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95–176, set out as a note under section 5003 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–630 applicable only to articles exported on or after first day of first calendar month which begins more than 90 days after Oct. 22, 1968, see section 4 of Pub. L. 90–630, set out as a note under section 5008 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–44 effective July 1, 1965, see section 805(g)(1) of Pub. L. 89–44, set out as a note under section 5008 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 2 of Pub. L. 88–539 provided that: ''The amendment made by the first section of this Act [amending this section] shall apply with respect to articles exported or destroyed after the date of the enactment of this Act [Aug. 31, 1964].''

[§ 5063. Repealed. Pub. L. 89–44, title V, § 501(e), June 21, 1965, 79 Stat. 150]

Section, Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1336; Pub. L. 86–75, § 3(b)(1), June 30, 1959, 73 Stat. 157; Pub. L. 86–564, title II, § 202(b)(1), June 30, 1960, 74 Stat. 290; Pub. L. 87–72, § 3(b)(1), June 30, 1961, 75 Stat. 193; Pub. L. 87–508, § 3(b)(1), June 28, 1962, 76 Stat. 114; Pub. L. 88–52, § 3(b)(1)(A), June 29, 1963, 77 Stat. 72; Pub. L. 88–348, § 2(b)(1)(A), June 30, 1964, 78 Stat. 237, made provision for floor stocks refunds on distilled spirits, wines, cordials, and beer and set out limitations on the eligibility for such refunds or credits.

A prior section 5063, act Aug. 16, 1954, ch. 736, 68A Stat. 615, consisted of provisions similar to those comprising section 5063, prior to the general revision of this chapter by Pub. L. 85–859.

EFFECTIVE DATE OF REPEAL

Repeal applicable on and after July 1, 1965, see section 701(d) of Pub. L. 89–44, set out as an Effective Date of 1965 Amendment note under section 5701 of this title.

§ 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, and beer previously withdrawn, which were lost, rendered unmarketable, or condemned by a duly authorized official by reason of—

(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, 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, 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, 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, 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).

(3) Special rules for major disasters

If the President has determined under the Robert T. Stafford Disaster Relief and Emergency Assistance Act 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.

(c) Destruction of distilled spirits, wines, or beer

When the Secretary has made payment under this section in respect of the tax, or tax and

duty, on the distilled spirits, wines, or beer condemned by a duly authorized official or rendered unmarketable, such distilled spirits, wines, or beer shall be destroyed under such supervision as the Secretary may prescribe, unless such distilled spirits, wines, or beer were previously destroyed under supervision satisfactory to the Secretary.

(d) Products of Puerto Rico

The provisions of this section shall not be applicable in respect of distilled spirits, wines, and beer of Puerto Rican manufacture brought into the United States and so lost or rendered unmarketable or condemned.

(e) Other laws applicable

All provisions of law, including penalties, applicable in respect of internal revenue taxes on distilled spirits, wines, and beer shall, insofar as applicable and not inconsistent with this section, be applied in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of such taxes.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1337; amended Pub. L. 91–606, title III, § 301(i), Dec. 31, 1970, 84 Stat. 1759; Pub. L. 93–288, title VII, § 702(i), formerly title VI, § 602(i), May 22, 1974, 88 Stat. 164, renumbered title VII, § 702(i), Pub. L. 103–337, div. C, title XXXIV, § 3411(a)(1), (2), Oct. 5, 1994, 108 Stat. 3100; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95–423, § 1(a), Oct. 6, 1978, 92 Stat. 935; Pub. L. 96–39, title VIII, § 807(a)(10), July 26, 1979, 93 Stat. 282; Pub. L. 100–707, title I, § 109(*l*), Nov. 23, 1988, 102 Stat. 4709; Pub. L. 108–311, title IV, § 408(a)(7)(D), Oct. 4, 2004, 118 Stat. 1191.)

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (b)(3), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 5064, act Aug. 16, 1954, ch. 736, 68A Stat. 615, related to ''territorial extent of law'', prior to the general revision of this chapter by Pub. L. 85–859. See section 5065 of this title.

AMENDMENTS

2004—Subsec. (b)(3). Pub. L. 108–311 inserted ''Robert T. Stafford'' before ''Disaster Relief and Emergency Assistance Act'' in introductory provisions.

1988—Subsec. (b)(3). Pub. L. 100–707 substituted ''and Emergency Assistance Act'' for ''Act of 1974''.

1979—Pub. L. 96–39 struck out ''rectified products,'' after ''distilled spirits, wines,'' wherever appearing.

1978—Pub. L. 95–423 substituted ''Losses resulting from disaster, vandalism, or malicious mischief'' for ''Losses caused by disaster'' in section catchline.

Subsec. (a). Pub. L. 95–423 substituted provisions authorizing the Secretary, under such regulations as he may prescribe, to pay the prescribed amount on distilled spirits, etc., lost, rendered unmarketable, or condemned by a duly authorized official by reason of fire, flood, casualty or other disaster, breakage, destruction, or other damage (but not including theft) resulting from vandalism or malicious mischief, for provisions authorizing such payment where the President has determined under the Disaster Relief Act of 1974 that a ''major disaster'' has occurred, and that distilled spirits, etc., were lost, rendered unmarketable, or condemned by a duly authorized official by reason of such disaster occurring after June 30, 1959.

Subsec. (b). Pub. L. 95–423 redesignated par. (1) as (1)(A), substituted provisions disallowing a claim unless filed within 6 months after such distilled spirits, etc., were lost, rendered unmarketable or condemned, for provisions disallowing a claim unless filed within 6 months after the President determined that such disaster occurred, and added par. (1)(B); in par. (2) substituted provisions limiting claims to no less than $250, except as provided in par. (3)(A), for provisions demanding proof that claimant was not indemnified by any valid claim of insurance and that he is entitled to payment under this section; and added pars. (3) and (4).

1976—Subsecs. (a) to (c). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1974—Subsec. (a). Pub. L. 93–288 substituted ''Disaster Relief Act of 1974'' for ''Disaster Relief Act of 1970''.

1970—Subsec. (a). Pub. L. 91–606 substituted ''Disaster Relief Act of 1970'' for ''Act of September 30, 1950 (42 U.S.C. 1855)''.

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 1978 AMENDMENT

Section 1(c) of Pub. L. 95–423 provided that: ''The amendments made by this section [amending 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 [Oct. 6, 1978].''

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–288 effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, formerly set out as an Effective Date note under section 5121 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–606 effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as a note under section 165 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.

EXCEPTION TO EFFECTIVE DATE

Section 210(a)(3) of Pub. L. 85–859, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''Provisions having the effect of section 5064 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as such section is included in chapter 51 of such Code as amended by section 201 of this Act) shall be deemed to be included in the Internal Revenue Code of 1986, effective on the day following the date of the enactment of this Act [Sept. 2, 1958], and shall apply with respect to disasters occurring after such date of enactment, and not later than June 30, 1959.''

BEER LOST BY REASON OF FLOODS OF 1951 OR HURRICANES OF 1954

Section 207 of Pub. L. 85–859 provided for payment of an amount equal to the amount of taxes paid under section 3150(a) of the Internal Revenue Code of 1939 on fermented malt liquor which was lost, rendered unmarketable, or condemned by reason of the floods of 1951 or the hurricanes of 1954, under certain conditions and under regulations to be prescribed.

LOSSES OF ALCOHOLIC LIQUORS CAUSED BY DISASTER

Section 208 of Pub. L. 85–859 provided for payment of an amount equal to the amount of taxes and customs duties paid on distilled spirits, wines, rectified products, and beer previously withdrawn, which were lost, rendered unmarketable, or condemned by reason of a major disaster occurring after Dec. 31, 1954, and not later than Sept. 2, 1958, under certain conditions and under regulations to be prescribed.

§ 5065. Territorial extent of law

The provisions of this part imposing taxes on distilled spirits, wines, and beer shall be held to extend to such articles produced anywhere within the exterior boundaries of the United States, whether the same be within an internal revenue district or not.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1337.)

PRIOR PROVISIONS

A prior section 5065, act Aug. 16, 1954, ch. 736, 68A Stat. 615, made a cross reference to general administrative provisions applicable to assessment, collection, refund, etc., of taxes, prior to the general revision of this chapter by Pub. L. 85–859.

Provisions similar to those comprising this section were contained in former section 5064, act Aug. 16, 1954, ch. 736, 68A Stat. 615, prior to the general revision of this chapter by Pub. L. 85–859.

§ 5066. Distilled spirits for use of foreign embassies, legations, etc.

(a) Entry into customs bonded warehouses

(1) Bottled distilled spirits withdrawn from bonded premises

Under such regulations as the Secretary may prescribe, bottled distilled spirits may be withdrawn from bonded premises as provided in section 5214(a)(4) for transfer to customs bonded warehouses in which imported distilled spirits are permitted to be stored in bond for entry therein pending withdrawal therefrom as provided in subsection (b). For the purposes of this chapter, the withdrawal of distilled spirits from bonded premises under the provisions of this paragraph shall be treated as a withdrawal for exportation and all provisions of law applicable to distilled spirits withdrawn for exportation under the provisions of section 5214(a)(4) shall apply with respect to spirits withdrawn under this paragraph.

(2) Bottled distilled spirits eligible for export with benefit of drawback

Under such regulations as the Secretary may prescribe, distilled spirits marked especially for export under the provisions of section 5062(b) may be shipped to a customs bonded warehouse in which imported distilled spirits are permitted to be stored, and entered in such warehouses pending withdrawal therefrom as provided in subsection (b), and the provisions of this chapter shall apply in respect of such distilled spirits as if such spirits were for exportation.

(3) Time deemed exported

For the purposes of this chapter, distilled spirits entered into a customs bonded warehouse as provided in this subsection shall be deemed exported at the time so entered.

(b) Withdrawal from customs bonded warehouses

Notwithstanding any other provisions of law, distilled spirits entered into customs bonded warehouses under the provisions of subsection (a) may, under such regulations as the Secretary may prescribe, be withdrawn from such warehouses for consumption in the United States by and for the official or family use of such foreign governments, organizations, and individuals who are entitled to withdraw imported distilled spirits from such warehouses free of tax. Distilled spirits transferred to customs bonded warehouses under the provisions of this section shall be entered, stored, and accounted for in such warehouses under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported distilled spirits.

(c) Withdrawal for domestic use

Distilled spirits entered into customs bonded warehouses as authorized by this section may be withdrawn therefrom for domestic use, in which event they shall be treated as American goods exported and returned.

(d) Sale or unauthorized use prohibited

No distilled spirits withdrawn from customs bonded warehouses or otherwise brought into the United States free of tax for the official or family use of such foreign governments, organizations, or individuals as are authorized to obtain distilled spirits free of tax shall be sold, or shall be disposed of or possessed for any use other than an authorized use. The provisions of section 5001(a)(5)[1] are hereby extended and made applicable to any person selling, disposing of, or possessing any distilled spirits in violation of the preceding sentence, and to the distilled spirits involved in any such violation.

(Added Pub. L. 91–659, § 3(a), Jan. 8, 1971, 84 Stat. 1965; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95–176, § 2(d), Nov. 14, 1977, 91 Stat. 1364; Pub. L. 96–39, title VIII, § 807(a)(11), July 26, 1979, 93 Stat. 282; Pub. L. 98–369, div. A, title IV, § 454(c)(2), July 18, 1984, 98 Stat. 820.)

REFERENCES IN TEXT

Section 5001(a)(5), referred to in subsec. (d), was redesignated section 5001(a)(4) by Pub. L. 103–465, title I, § 136(a), Dec. 8, 1994, 108 Stat. 4841.

PRIOR PROVISIONS

A prior section 5066 was renumbered 5067 of this title.

AMENDMENTS

1984—Subsec. (a)(2). Pub. L. 98–369 substituted ''marked'' for ''stamped or restamped, and marked,''.

1979—Subsec. (a)(1). Pub. L. 96–39, § 807(a)(11)(A), substituted ''bottled distilled spirits'' for ''distilled spirits bottled in bond for export under the provisions of section 5233, or bottled distilled spirits returned to bonded premises under section 5215(b),''.

Subsec. (b). Pub. L. 96–39, § 807(a)(11)(B), struck out ''or domestic distilled spirits transferred to customs bonded warehouses under section 5521(d)(2)'' after ''the provisions of subsection (a)''.

[1] See References in Text note below.

1977—Subsec. (a)(1). Pub. L. 95–176 substituted par. (1) heading ''Bottled distilled spirits withdrawn from bonded premises'' for ''Distilled spirits bottled in bond for export'' and authorized withdrawal of bottled distilled spirits returned to bonded premises under section 5215(b) as provided in section 5214(a)(4).

1976—Subsecs. (a), (b). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective July 1, 1985, see section 456(b) of Pub. L. 98–369, set out as an Effective Date note under section 5101 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 1977 AMENDMENT

Amendment by Pub. L. 95–176 effective on first day of first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95–176, set out as a note under section 5003 of this title.

EFFECTIVE DATE

Section 6 of Pub. L. 91–659 provided that: ''This Act [enacting this section and amending sections 5008, 5173, 5178, 5215, and 5232 of this title] shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act [Jan. 8, 1971].''

§ 5067. Cross reference

For general administrative provisions applicable to the assessment, collection, refund, etc., of taxes, see subtitle F.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1338, § 5066; renumbered § 5067, Pub. L. 91–659, § 3(a), Jan. 8, 1971, 84 Stat. 1965.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 5065, act Aug. 16, 1954, ch. 736, 68A Stat. 615, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5081, added Pub. L. 100–203, title X, § 10512(a)(1)(A), Dec. 22, 1987, 101 Stat. 1330–447; amended Pub. L. 100–647, title VI, § 6106(a), (b), Nov. 10, 1988, 102 Stat. 3712, related to tax on proprietors of distilled spirits plants, bonded wine cellars, etc., prior to repeal by Pub. L. 109–59, title XI, § 11125(a)(1)(A), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5081, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1338, imposed a tax on rectifiers of distilled spirits or wines, prior to repeal by Pub. L. 96–39, title VIII, §§ 803(b), 810, July 26, 1979, 93 Stat. 274, 292, effective Jan. 1, 1980.

Another prior section 5081, act Aug. 16, 1954, ch. 736, 68A Stat. 615, imposed a tax on rectifiers of distilled spirits or wines, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5082, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1338, defined ''rectifier'', prior to repeal by Pub. L. 96–39, title VIII, §§ 803(b), 810, July 26, 1979, 93 Stat. 274, 292, effective Jan. 1, 1980.

Another prior section 5082, act Aug. 16, 1954, ch. 736, 68A Stat. 616, defined ''rectifier'', prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5083, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1338; amended Pub. L. 89–44, title VIII, § 805(f)(7), June 21, 1965, 79 Stat. 161, enumerated source authority for certain exemptions from tax under sections 5021 and 5081 of this title, prior to repeal by Pub. L. 96–39, title VIII, §§ 803(b), 810, July 26, 1979, 93 Stat. 274, 292, effective Jan. 1, 1980.

Another prior section 5083, act Aug. 16, 1954, ch. 736, 68A Stat. 616, enumerated source authority for certain exemptions from tax under sections 5021 and 5081 of this title, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5084, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1339, made cross references to other provisions relating to rectification, prior to repeal by Pub. L. 96–39, title VIII, §§ 803(b), 810, July 26, 1979, 93 Stat. 274, 292, effective Jan. 1, 1980.

Another prior section 5084, act Aug. 16, 1954, ch. 736, 68A Stat. 616, made cross references to other provisions relating to rectification, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5091, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1339; amended Pub. L. 100–203, title X, § 10512(a)(2), Dec. 22, 1987, 101 Stat. 1330–448, related to imposition of tax on brewers, prior to repeal by Pub. L. 109–59, title XI, § 11125(a)(1)(B), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5091, act Aug. 16, 1954, ch. 736, 68A Stat. 616, related to imposition of tax on brewers, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5092, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1339; amended Pub. L. 95–458, § 2(b)(3), Oct. 14, 1978, 92 Stat. 1256, defined ''brewer'', prior to repeal by Pub. L. 109–59, title XI, § 11125(a)(1)(B), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5092, act Aug. 16, 1954, ch. 736, 68A Stat. 617, defined ''brewer'', prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5093, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1339, set out cross references, prior to repeal by Pub. L. 109–59, title XI, § 11125(a)(1)(B), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5093, act Aug. 16, 1954, ch. 736, 68A Stat. 617, set out cross references, prior to the general revision of this chapter by Pub. L. 85–859.

PART II—MISCELLANEOUS PROVISIONS

Subpart
A. Manufacturers of stills.
B. Nonbeverage domestic drawback claimants.
C. Recordkeeping by dealers.[1]
D. Other provisions.

PRIOR PROVISIONS

A prior part II, consisting of subparts A to G, related to occupational tax, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

2005—Pub. L. 109–59, title XI, § 11125(b)(1)(A), Aug. 10, 2005, 119 Stat. 1953, amended part heading and table of subparts generally, substituting ''MISCELLANEOUS PROVISIONS'' for ''OCCUPATIONAL TAX'' in part heading, ''Manufacturers of stills'' for ''Proprietors of distilled spirits plants, bonded wine cellars, etc.'' in item for subpart A, ''Nonbeverage domestic drawback claimants'' for ''Brewer'' in item for subpart B, ''Recordkeeping by dealers'' for ''Manufacturers of stills'' in item for subpart C, and ''Other provisions'' for ''Wholesale dealers'' in item for subpart D and striking out items for subparts E ''Retail dealers'', F ''Nonbeverage domestic drawback claimants'', and G ''General provisions''.

1987—Pub. L. 100–203, title X, § 10512(a)(1)(C), Dec. 22, 1987, 101 Stat. 1330–448, added item for subpart A.

[1] So in original. Does not conform to subpart heading.

1979—Pub. L. 96–39, title VIII, § 807(b)(3), July 26, 1979, 93 Stat. 290, struck out item for subpart A ''Rectifier'' in table of subparts comprising part II.

SUBPART A—MANUFACTURERS OF STILLS

Sec.
5101. Notice of manufacture of still; notice of set up of still.
5102. Definition of manufacturer of stills.

PRIOR PROVISIONS

A prior subpart A, consisting of section 5081 of this title, related to proprietors of distilled spirits plants, bonded wine cellars, etc., prior to repeal by Pub. L. 109–59, title XI, § 11125(a)(1)(A), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior subpart A, consisting of sections 5081 to 5084 of this title, related to rectifiers of distilled spirits or wines, prior to repeal by Pub. L. 96–39, title VIII, §§ 803(b), 810, July 26, 1979, 93 Stat. 274, 292, effective Jan. 1, 1980.

AMENDMENTS

2005—Pub. L. 109–59, title XI, § 11125(b)(2), Aug. 10, 2005, 119 Stat. 1953, redesignated subpart C of this part as this subpart.

§ 5101. Notice of manufacture of still; notice of set up of still

(a) Notice requirements

(1) Notice of manufacture of still

The Secretary may, pursuant to regulations, require any person who manufactures any still, boiler, or other vessel to be used for the purpose of distilling, to give written notice, before the still, boiler, or other vessel is removed from the place of manufacture, setting forth by whom it is to be used, its capacity, and the time of removal from the place of manufacture.

(2) Notice of set up of still

The Secretary may, pursuant to regulations, require that no still, boiler, or other vessel be set up without the manufacturer of the still, boiler, or other vessel first giving written notice to the Secretary of that purpose.

(b) Penalties, etc.

(1) For penalty and forfeiture for failure to give notice of manufacture, or for setting up a still without first giving notice, when required by the Secretary, see sections 5615(2) and 5687.

(2) For penalty and forfeiture for failure to register still or distilling apparatus when set up, see section 5601(a)(1) and 5615(1).

(Added Pub. L. 98–369, div. A, title IV, § 451(a), July 18, 1984, 98 Stat. 818.)

PRIOR PROVISIONS

A prior section 5101, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1339, contained provisions relating to imposition and rate of tax, prior to the general revision of this subpart by Pub. L. 98–369.

Another prior section 5101, act Aug. 16, 1954, ch. 736, 68A Stat. 617, related to special tax on manufacturers of stills, prior to the general revision of this chapter by Pub. L. 85–859.

EFFECTIVE DATE

Section 456 of part II (§§ 451–456) of subtitle D of title IV of division A of Pub. L. 98–369, as amended by Pub. L. 99–514, title XVIII, § 1845, Oct. 22, 1986, 100 Stat. 2856, provided that:

''(a) IN GENERAL.—Except as otherwise provided in this section the amendments made by this part [enacting this section and section 5102 of this title, amending sections 5005, 5062, 5066, 5116, 5134, 5179, 5204, 5206, 5207, 5214, 5215, 5235, 5301, 5354, 5555, 5604, 5613, 5615, 5691, 6103, 6801, and 7213 of this title, repealing section 5205 of this title, and omitting sections 5103, 5105, and 5106 of this title] shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act [July 18, 1984].

''(b) REPEAL OF STAMP REQUIREMENT.—The amendments made by section 454 [amending sections 5062, 5066, 5116, 5204, 5206, 5207, 5215, 5235, 5301, 5555, 5604, 5613, and 6801 of this title and repealing section 5205 of this title] shall take effect on July 1, 1985.

''(c) FORTIFICATION OF COOKING WINE.—The amendments made by section 455 [amending sections 5005, 5214, and 5354 of this title] shall take effect on the date of the enactment of this Act [July 18, 1984].

''(d) SECTION 452.—The amendment made by section 452 [amending section 5134 of this title] shall apply to products manufactured or produced after October 31, 1984.''

§ 5102. Definition of manufacturer of stills

Any person who manufactures any still or condenser to be used in distilling shall be deemed a manufacturer of stills.

(Added Pub. L. 98–369, div. A, title IV, § 451(a), July 18, 1984, 98 Stat. 819.)

PRIOR PROVISIONS

A prior section 5102, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1339, defined manufacturer of stills, prior to the general revision of this subpart by Pub. L. 98–369.

Another prior section 5102, act Aug. 16, 1954, ch. 736, 68A Stat. 617, defined manufacturer of stills, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5103, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1339, related to exemptions from the taxes imposed by section 5101 of this title, prior to the general revision of this subpart by Pub. L. 98–369.

Another prior section 5103, act Aug. 16, 1954, ch. 736, 68A Stat. 617, related to exemptions from taxes imposed by section 5101 of this title, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5104, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1339, provided that the tax imposed on stills or condensers by section 5101 be paid by stamp, denoting the tax, under regulations prescribed by Secretary or his delegate, prior to repeal by Pub. L. 94–455, title XIX, § 1905(b)(3)(A)(i), Oct. 4, 1976, 90 Stat. 1822, effective on first day of first month which began more than 90 days after Oct. 4, 1976.

Another prior section 5104, act Aug. 16, 1954, ch. 736, 68A Stat. 617, required taxes to be paid by stamps, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5105, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1339; amended Pub. L. 94–455, title XIX, §§ 1905(b)(6)(A), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1823, 1834, related to notice of manufacturer of and permit to set up still, prior to the general revision of this subpart by Pub. L. 98–369. See section 5101 of this title.

Another prior section 5105, act Aug. 16, 1954, ch. 736, 68A Stat. 617, related to notice of manufacture of and permit to set up still, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5106, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1340; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, related to export without payment of tax and export with the privilege of drawback, prior to the general revision of this subpart by Pub. L. 98–369.

Another prior section 5106, act Aug. 16, 1954, ch. 736, 68A Stat. 618, related to payment of tax and drawback

on exports, prior to the general revision of this chapter by Pub. L. 85–859.

EFFECTIVE DATE

Section effective on first day of first calendar month which begins more than 90 days after July 18, 1984, see section 456(a) of Pub. L. 98–369, set out as a note under section 5101 of this title.

SUBPART B—NONBEVERAGE DOMESTIC DRAWBACK CLAIMANTS

Sec.
5111. Eligibility.
5112. Registration and regulation.
5113. Investigation of claims.
5114. Drawback.

PRIOR PROVISIONS

A prior subpart B, consisting of sections 5091 to 5093, related to brewers, prior to repeal by Pub. L. 109–59, title XI, § 11125(a)(1)(B), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior subpart B, consisting of sections 5091 to 5093, related to brewers, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

2005—Pub. L. 109–59, title XI, § 11125(b)(3)(A), (B), Aug. 10, 2005, 119 Stat. 1953, redesignated subpart F of this part as this subpart, renumbered items 5131 to 5134 as 5111 to 5114, respectively, and struck out ''and rate of tax'' after ''Eligibility'' in item 5111.

1997—Pub. L. 105–34, title XIV, § 1415(b)(3), Aug. 5, 1997, 111 Stat. 1047, struck out item 5115 ''Sign required on premises''.

§ 5111. Eligibility

Any person using distilled spirits on which the tax has been determined, in the manufacture or production of medicines, medicinal preparations, food products, flavors, flavoring extracts, or perfume, which are unfit for beverage purposes shall be eligible for drawback at the time when such distilled spirits are used in the manufacture of such products as provided for in this subpart.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1345, § 5131; amended Pub. L. 94–455, title XIX, § 1905(a)(11), Oct. 4, 1976, 90 Stat. 1819; Pub. L. 100–203, title X, § 10512(d), Dec. 22, 1987, 101 Stat. 1330–448; Pub. L. 103–465, title I, § 136(b), Dec. 8, 1994, 108 Stat. 4841; renumbered § 5111 and amended Pub. L. 109–59, title XI, § 11125(a)(2), (b)(3)(A), (C), Aug. 10, 2005, 119 Stat. 1953, 1954.)

PRIOR PROVISIONS

A prior section 5111, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1340; amended Pub. L. 94–455, title XIX, § 1905(b)(3)(B), Oct. 4, 1976, 90 Stat. 1822; Pub. L. 100–203, title X, § 10512(b), Dec. 22, 1987, 101 Stat. 1330–448, related to tax on wholesale dealers in liquors or beer, prior to repeal by Pub. L. 109–59, title XI, § 11125(a)(1)(C), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5111, act Aug. 16, 1954, ch. 736, 68A Stat. 618, related to tax on wholesale and retail dealers in liquors or beer, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

2005—Pub. L. 109–59, § 11125(b)(3)(C), struck out ''and rate of tax'' after ''Eligibility'' in section catchline, struck out ''(a) Eligibility for drawback'' before ''Any person'', and struck out subsec. (b). Text read as follows: ''The special tax imposed by subsection (a) shall be $500 per year.''

Pub. L. 109–59, § 11125(b)(3)(A), renumbered section 5131 of this title as this section.

Subsec. (a). Pub. L. 109–59, § 11125(a)(2), struck out '', on payment of a special tax per annum,'' after ''beverage purposes''.

1994—Subsec. (a). Pub. L. 103–465 substituted ''flavoring extracts, or perfume'' for ''or flavoring extracts''.

1987—Subsec. (b). Pub. L. 100–203 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The special tax imposed by subsection (a) shall be graduated in amount as follows: (1) for total annual use not exceeding 25 proof gallons, $25 a year; (2) for total annual use not exceeding 50 proof gallons, $50 a year; (3) for total annual use of more than 50 proof gallons, $100 a year.''

1976—Subsec. (a). Pub. L. 94–455 struck out ''produced in a domestic registered distillery or industrial alcohol plant and withdrawn from bond, or using distilled spirits withdrawn from the bonded premises of a distilled spirits plant,'' after ''Any person using distilled spirits''.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109–59 effective July 1, 2008, but inapplicable to taxes imposed for periods before such date, see section 11125(c) of Pub. L. 109–59, set out as a note under section 5002 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by 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.

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–203, title X, § 10512(h), Dec. 22, 1987, 101 Stat. 1330–450, provided that:

''(1) IN GENERAL.—The amendments made by this section [enacting sections 5081, 5276, and 5731 of this title and amending this section and sections 5091, 5121, 5131, 5691, and 5801 of this title] shall take effect on January 1, 1988.

''(2) ALL TAXPAYERS TREATED AS COMMENCING IN BUSINESS ON JANUARY 1, 1988.—

''(A) IN GENERAL.—Any person engaged on January 1, 1988, in any trade or business which is subject to an occupational tax shall be treated for purposes of such tax as having 1st engaged in such trade or business on such date.

''(B) LIMITATION ON AMOUNT OF TAX.—In the case of a taxpayer who paid an occupational tax in respect of any premises for any taxable period which began before January 1, 1988, and includes such date, the amount of the occupational tax imposed by reason of subparagraph (A) in respect of such premises shall not exceed an amount equal to ½ the excess (if any) of—

''(i) the rate of such tax as in effect on January 1, 1988, over

''(ii) the rate of such tax as in effect on December 31, 1987.

''(C) OCCUPATIONAL TAX.—For purposes of this paragraph, the term 'occupational tax' means any tax imposed under part II of subchapter A of chapter 51, section 5276, section 5731, or section 5801 of the Internal Revenue Code of 1986 (as amended by this section).

''(D) DUE DATE OF TAX.—The amount of any tax required to be paid by reason of this paragraph shall be due on April 1, 1988.''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by 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.

§ 5112. Registration and regulation

Every person claiming drawback under this subpart shall register annually with the Secretary; keep such books and records as may be necessary to establish the fact that distilled spirits received by him and on which the tax has been determined were used in the manufacture or production of medicines, medicinal preparations, food products, flavors, flavoring extracts, or perfume, which were unfit for use for beverage purposes; and be subject to such rules and regulations in relation thereto as the Secretary shall prescribe to secure the Treasury against frauds.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1345, § 5132; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 103–465, title I, § 136(b), Dec. 8, 1994, 108 Stat. 4841; renumbered § 5112, Pub. L. 109–59, title XI, § 11125(b)(3)(A), Aug. 10, 2005, 119 Stat. 1953.)

PRIOR PROVISIONS

A prior section 5112, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1340, defined ''dealer'', ''wholesale dealer in liquors'', and ''wholesale dealer in beer'', prior to repeal by Pub. L. 109–59, title XI, § 11125(a)(1)(C), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5112, act Aug. 16, 1954, ch. 736, 68A Stat. 618, contained definitions of wholesale dealers, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

2005—Pub. L. 109–59 renumbered section 5132 of this title as this section.

1994—Pub. L. 103–465 substituted ''flavoring extracts, or perfume'' for ''or flavoring extracts''.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by 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.

§ 5113. Investigation of claims

For the purpose of ascertaining the correctness of any claim filed under this subpart, the Secretary is authorized to examine any books, papers, records, or memoranda bearing upon the matters required to be alleged in the claim, to require the attendance of the person filing the claim or of any officer or employee of such person or the attendance of any other person having knowledge in the premises, to take testimony with reference to any matter covered by the claim, and to administer oaths to any person giving such testimony.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1346, § 5133; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; renumbered § 5113, Pub. L. 109–59, title XI, § 11125(b)(3)(A), Aug. 10, 2005, 119 Stat. 1953.)

PRIOR PROVISIONS

A prior section 5113, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1340; amended Pub. L. 87–863, § 4(b), Oct. 23, 1962, 76 Stat. 1142; Pub. L. 94–455, title XIX, §§ 1905(a)(7), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1819, 1834; Pub. L. 100–647, title II, § 2004(t)(2), (4), Nov. 10, 1988, 102 Stat. 3609, 3610, related to exemptions from tax, prior to repeal by Pub. L. 109–59, title XI, § 11125(a)(1)(C), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5113, act Aug. 16, 1954, ch. 736, 68A Stat. 619, related to exemptions from tax, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

2005—Pub. L. 109–59 renumbered section 5133 of this title as this section.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

§ 5114. Drawback

(a) Rate of drawback

In the case of distilled spirits on which the tax has been paid or determined, and which have been used as provided in this subpart, a drawback shall be allowed on each proof gallon at a rate of $1 less than the rate at which the distilled spirits tax has been paid or determined.

(b) Claims

Such drawback shall be due and payable quarterly upon filing of a proper claim with the Secretary; except that, where any person entitled to such drawback shall elect in writing to file monthly claims therefor, such drawback shall be due and payable monthly upon filing of a proper claim with the Secretary. The Secretary may require persons electing to file monthly drawback claims to file with him a bond or other security in such amount and with such conditions as he shall by regulations prescribe. Any such election may be revoked on filing of notice thereof with the Secretary. No claim under this subpart shall be allowed unless filed with the Secretary within the 6 months next succeeding the quarter in which the distilled spirits covered by the claim were used as provided in this subpart.

(c) Allowance of drawback even where certain requirements not met

(1) In general

No claim for drawback under this section shall be denied in the case of a failure to comply with any requirement imposed under this subpart or any rule or regulation issued thereunder upon the claimant's establishing to the satisfaction of the Secretary that distilled spirits on which the tax has been paid or determined were in fact used in the manufacture or production of medicines, medicinal preparations, food products, flavors, flavoring extracts, or perfume, which were unfit for beverage purposes.

(2) Penalty

(A) In general

In the case of a failure to comply with any requirement imposed under this subpart or any rule or regulation issued thereunder, the claimant shall be liable for a penalty of $1,000 for each failure to comply unless it is shown that the failure to comply was due to reasonable cause.

(B) Penalty may not exceed amount of claim

The aggregate amount of the penalties imposed under subparagraph (A) for failures described in paragraph (1) in respect of any claim shall not exceed the amount of such claim (determined without regard to subparagraph (A)).

(3) Penalty treated as tax

The penalty imposed by paragraph (2) shall be assessed, collected, and paid in the same manner as taxes, as provided in section 6665(a).

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1346, § 5134; amended Pub. L. 90–615, § 2(a), Oct. 21, 1968, 82 Stat. 1210; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98–369, div. A, title IV, § 452, July 18, 1984, 98 Stat. 819; Pub. L. 103–465, title I, § 136(b), Dec. 8, 1994, 108 Stat. 4841; Pub. L. 104–188, title I, § 1704(t)(12), Aug. 20, 1996, 110 Stat. 1888; renumbered § 5114, Pub. L. 109–59, title XI, § 11125(b)(3)(A), Aug. 10, 2005, 119 Stat. 1953.)

PRIOR PROVISIONS

A prior section 5114 was renumbered section 5432 of this title.

Another prior section 5114, act Aug. 16, 1954, ch. 736, 68A Stat. 619, related to recordkeeping by wholesale dealers, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5115, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1342; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, related to requirement that a sign be posted on premises where liquor is sold and penalty for noncompliance, prior to repeal by Pub. L. 105–34, title XIV, § 1415(a), Aug. 5, 1997, 111 Stat. 1047.

Another prior section 5115, act Aug. 16, 1954, ch. 736, 68A Stat. 620, related to making and stamping packages filled on premises of wholesale dealers, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5116 was renumbered section 5131 of this title.

Another prior section 5116, act Aug. 16, 1954, ch. 736, 68A Stat. 620, related to packaging of distilled spirits for industrial uses, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5117, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1343; amended Pub. L. 94–455, title XIX, § 1905(a)(8), Oct. 4, 1976, 90 Stat. 1819; Pub. L. 108–357, title II, § 246(b), Oct. 22, 2004, 118 Stat. 1448, related to prohibited purchases by wholesale dealers in liquors, prior to repeal by Pub. L. 109–59, title XI, § 11125(a)(1)(C), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

AMENDMENTS

2005—Pub. L. 109–59 renumbered section 5134 of this title as this section.

1996—Subsec. (c)(3). Pub. L. 104–188 substituted ''section 6665(a)'' for ''section 6662(a)''.

1994—Subsec. (c)(1). Pub. L. 103–465 substituted ''flavoring extracts, or perfume'' for ''or flavoring extracts''.

1984—Subsec. (c). Pub. L. 98–369 added subsec. (c).

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1968—Subsec. (b). Pub. L. 90–615 substituted ''6 months'' for ''3 months'' in last sentence.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by 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.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable to products manufactured or produced after Oct. 31, 1984, see section 456(d) of Pub. L. 98–369, set out as an Effective Date note under section 5101 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 2(b) of Pub. L. 90–615 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to claims filed on or after the date of the enactment of this Act [Oct. 21, 1968].''

SUBPART C—RECORDKEEPING AND REGISTRATION BY DEALERS

Sec.
5121. Recordkeeping by wholesale dealers.
5122. Recordkeeping by retail dealers.
5123. Preservation and inspection of records, and entry of premises for inspection.
5124. Registration by dealers.

PRIOR PROVISIONS

A prior subpart C was redesignated subpart A of this part.

Another prior subpart C, consisting of sections 5101 to 5106, related to manufacturers of stills, prior to the general revision of this subpart by Pub. L. 98–369, div. A, title IV, § 451(a), July 18, 1984, 98 Stat. 818.

Another prior subpart C, consisting of sections 5101 to 5106, related to manufacturers of stills, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

2005—Pub. L. 109–59, title XI, § 11125(b)(4), Aug. 10, 2005, 119 Stat. 1954, added subpart heading and items 5121 to 5124.

§ 5121. Recordkeeping by wholesale dealers

(a) Requirements

(1) Distilled spirits

Every wholesale dealer in liquors who sells distilled spirits to other dealers shall keep daily a record of distilled spirits received and disposed of by him, in such form and at such place and containing such information, and shall submit correct summaries of such records to the Secretary at such time and in such form and manner, as the Secretary shall by regulations prescribe. Such dealer shall also submit correct extracts from or copies of such records, at such time and in such form and manner as the Secretary may by regulations prescribe; however, the Secretary may on application by such dealer, in accordance with such regulations, relieve him from this requirement until further notice, whenever the Secretary deems that the submission of such extracts or copies serves no useful purpose in law enforcement or in protection of the revenue.

(2) Wines and beer

Every wholesale dealer in liquors and every wholesale dealer in beer shall provide and keep, at such place as the Secretary shall by regulations prescribe, a record in book form of all wines and beer received, showing the quantities thereof and from whom and the dates received, or shall keep all invoices of, and bills for, all wines and beer received.

(b) Exemption of States, political subdivisions, etc.

The provision of subsection (a) shall not apply to a State, to a political subdivision of a State,

to the District of Columbia, or to liquor stores operated by any of them, if they maintain and make available for inspection by internal revenue officers such records as will enable such officers to trace all distilled spirits, wines, and beer received, and all distilled spirits disposed of by them. Such States, subdivisions, District, or liquor stores shall, upon the request of the Secretary, furnish him such transcripts, summaries and copies of their records with respect to distilled spirits as he shall require.

(c) Wholesale dealers

For purposes of this part—

(1) Wholesale dealer in liquors

The term ''wholesale dealer in liquors'' means any dealer (other than a wholesale dealer in beer) who sells, or offers for sale, distilled spirits, wines, or beer, to another dealer.

(2) Wholesale dealer in beer

The term ''wholesale dealer in beer'' means any dealer who sells, or offers for sale, beer, but not distilled spirits or wines, to another dealer.

(3) Dealer

The term ''dealer'' means any person who sells, or offers for sale, any distilled spirits, wines, or beer.

(4) Presumption in case of sale of 20 wine gallons or more

The sale, or offer for sale, of distilled spirits, wines, or beer, in quantities of 20 wine gallons or more to the same person at the same time, shall be presumptive evidence that the person making such sale, or offer for sale, is engaged in or carrying on the business of a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be. Such presumption may be overcome by evidence satisfactorily showing that such sale, or offer for sale, was made to a person other than a dealer.

(d) Cross references

(1) For provisions requiring proprietors of distilled spirits plants to keep records and submit reports of receipts and dispositions of distilled spirits, see section 5207.

(2) For penalty for violation of subsection (a), see section 5603.

(3) For provisions relating to the preservation and inspection of records, and entry of premises for inspection, see section 5123.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1342, § 5114; amended Pub. L. 94–455, title XIX, §§ 1905(c)(1), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1823, 1834; renumbered § 5121 and amended Pub. L. 109–59, title XI, § 11125(b)(5), Aug. 10, 2005, 119 Stat. 1954; Pub. L. 110–172, § 11(a)(31), Dec. 29, 2007, 121 Stat. 2487.)

PRIOR PROVISIONS

A prior section 5121, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1343; amended Pub. L. 94–455, title XIX, § 1905(a)(9), (b)(3)(C), Oct. 4, 1976, 90 Stat. 1819, 1822; Pub. L. 100–203, title X, § 10512(c), Dec. 22, 1987, 101 Stat. 1330–448, related to special tax on retail dealers in liquors or beer, prior to repeal by Pub. L. 109–59, title XI, § 11125(a)(1)(D), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5121, act Aug. 16, 1954, ch. 736, 68A Stat. 621, related to tax on retail dealers in liquors or beer, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

2007—Pub. L. 110–172, which directed amendment of this title by redesignating section 5432 as section 5121, was executed by making correction to amendment by Pub. L. 109–59, § 11125(b)(5)(B)(i). See 2005 Amendment note below.

2005—Pub. L. 109–59, § 11125(b)(5)(B)(i), which directed amendment of section 5114 of this title by substituting ''§ 5432. Recordkeeping by wholesale dealers'' for ''§ 5114. Records'' in section catchline, was executed by substituting ''§ 5121. Recordkeeping by wholesale dealers'' for ''§ 5114. Records'', to reflect the probable intent of Congress and the subsequent amendment by Pub. L. 110–172. See 2007 Amendment note above.

Pub. L. 109–59, § 11125(b)(5)(A), transferred section 5114 of this title to this subpart so as to appear after subpart analysis.

Subsecs. (c), (d). Pub. L. 109–59, § 11125(b)(5)(B)(ii), added subsec. (c) and redesignated former subsec. (c) as (d).

Subsec. (d)(3). Pub. L. 109–59, § 11125(b)(5)(C), substituted ''section 5123'' for ''section 5146''.

1976—Subsec. (a). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

Subsec. (b). Pub. L. 94–455, §§ 1905(c)(1), 1906(b)(13)(A), struck out ''or Territory'' after ''a State'', ''Territories'' after ''States,'', and ''or his delegate'' after ''Secretary''.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109–59 effective July 1, 2008, but inapplicable to taxes imposed for periods before such date, see section 11125(c) of Pub. L. 109–59, set out as a note under section 5002 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(c)(1) 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.

§ 5122. Recordkeeping by retail dealers

(a) Receipts

Every retail dealer in liquors and every retail dealer in beer shall provide and keep in his place of business a record in book form of all distilled spirits, wines, and beer received, showing the quantity thereof and from whom and the dates received, or shall keep all invoices of, and bills for, all distilled spirits, wines, and beer received.

(b) Dispositions

When he deems it necessary for law enforcement purposes or the protection of the revenue, the Secretary may by regulations require retail dealers in liquors and retail dealers in beer to keep records of the disposition of distilled spirits, wines, or beer, in such form or manner and of such quantities as the Secretary may prescribe.

(c) Retail dealers

For purposes of this section—

(1) Retail dealer in liquors

The term ''retail dealer in liquors'' means any dealer (other than a retail dealer in beer or a limited retail dealer) who sells, or offers for sale, distilled spirits, wines, or beer, to any person other than a dealer.

(2) Retail dealer in beer

The term ''retail dealer in beer'' means any dealer (other than a limited retail dealer) who sells, or offers for sale, beer, but not distilled spirits or wines, to any person other than a dealer.

(3) Limited retail dealer

The term ''limited retail dealer'' means any fraternal, civic, church, labor, charitable, benevolent, or ex-servicemen's organization making sales of distilled spirits, wine or beer on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it, or any person making sales of distilled spirits, wine or beer to the members, guests, or patrons of bona fide fairs, reunions, picnics, carnivals, or other similar outings, if such organization or person is not otherwise engaged in business as a dealer.

(4) Dealer

The term ''dealer'' has the meaning given such term by section 5121(c)(3).

(d) Cross references

For provisions relating to the preservation and inspection of records, and entry of premises for inspection, see section 5123.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1345, § 5124; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; renumbered § 5122 and amended Pub. L. 109–59, title XI, § 11125(b)(6), Aug. 10, 2005, 119 Stat. 1955.)

PRIOR PROVISIONS

A prior section 5122, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1344; amended Pub. L. 94–455, title XIX, § 1905(a)(10), Oct. 4, 1976, 90 Stat. 1819, defined ''retail dealer in liquors'', ''retail dealer in beer'', and ''limited retail dealer'', prior to repeal by Pub. L. 109–59, title XI, § 11125(a)(1)(D), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5122, act Aug. 16, 1954, ch. 736, 68A Stat. 621, related to definition of retail dealers in liquors and beer, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

2005—Pub. L. 109–59, § 11125(b)(6)(A), (B)(i), renumbered section 5124 of this title as this section, transferred section to this subpart so as to appear after section 5121, and substituted ''Recordkeeping by retail dealers'' for ''Records'' in section catchline.

Subsec. (c). Pub. L. 109–59, § 11125(b)(6)(B)(iii), added subsec. (c). Former subsec. (c) redesignated (d).

Pub. L. 109–59, § 11125(b)(6)(B)(ii), substituted ''section 5123'' for ''section 5146''.

Subsec. (d). Pub. L. 109–59, § 11125(b)(6)(B)(iii), redesignated subsec. (c) as (d).

1976—Subsec. (b). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' in two places.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109–59 effective July 1, 2008, but inapplicable to taxes imposed for periods before such date, see section 11125(c) of Pub. L. 109–59, set out as a note under section 5002 of this title.

§ 5123. Preservation and inspection of records, and entry of premises for inspection

(a) Preservation and inspection of records

Any records or other documents required to be kept under this part or regulations issued pursuant thereto shall be preserved by the person required to keep such records or documents, as the Secretary may by regulations prescribe, and shall be kept available for inspection by any internal revenue officer during business hours.

(b) Entry of premises for inspection

The Secretary may enter during business hours the premises (including places of storage) of any dealer for the purpose of inspecting or examining any records or other documents required to be kept by such dealer under this chapter or regulations issued pursuant thereto and any distilled spirits, wines, or beer kept or stored by such dealer on such premises.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1348, § 5146; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; renumbered § 5123, Pub. L. 109–59, title XI, § 11125(b)(7), Aug. 10, 2005, 119 Stat. 1955.)

PRIOR PROVISIONS

A prior section 5123, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1344; amended Pub. L. 87–863, § 4(a), Oct. 23, 1962, 76 Stat. 1142; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 100–647, title II, § 2004(t)(3), Nov. 10, 1988, 102 Stat. 3610, related to exemptions from special tax on certain wholesale and retail dealers in liquors or beer, prior to repeal by Pub. L. 109–59, title XI, § 11125(a)(1)(D), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5123, act Aug. 16, 1954, ch. 736, 68A Stat. 621, related to exemptions from tax on retail dealers of liquors or beer, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

2005—Pub. L. 109–59 renumbered section 5146 of this title as this section and transferred section to this subpart so as to appear after section 5122.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

§ 5124. Registration by dealers

Every dealer who is subject to the recordkeeping requirements under section 5121 or 5122 shall register with the Secretary such dealer's name or style, place of residence, trade or business, and the place where such trade or business is to be carried on. In the case of a firm or company, the names of the several persons constituting the same, and the places of residence, shall be so registered.

(Added Pub. L. 109–59, title XI, § 11125(b)(8), Aug. 10, 2005, 119 Stat. 1955.)

PRIOR PROVISIONS

A prior section 5124 was renumbered section 5122 of this title.

Another prior section 5124, act Aug. 16, 1954, ch. 736, 68A Stat. 622, related to recordkeeping requirements of retail dealers in liquors or beer, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5125, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1345, set out cross references, prior to repeal by Pub. L. 109–59, title XI, § 11125(a)(1)(D), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

EFFECTIVE DATE

Section effective July 1, 2008, but inapplicable to taxes imposed for periods before such date, see section

11125(c) of Pub. L. 109–59, set out as an Effective Date of 2005 Amendment note under section 5002 of this title.

SUBPART D—OTHER PROVISIONS

Sec.
5131. Packaging distilled spirits for industrial uses.
5132. Prohibited purchases by dealers.

PRIOR PROVISIONS

A prior subpart D, consisting of sections 5111 to 5117, related to wholesale dealers in liquors or beer, prior to repeal, except for sections 5114 and 5116, by Pub. L. 109–59, title XI, § 11125(a)(1)(C), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior subpart D, consisting of sections 5111 to 5116, related to wholesale dealers, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

A prior subpart E, consisting of sections 5121 to 5125, related to retail dealers, prior to repeal, except for section 5124, by Pub. L. 109–59, title XI, § 11125(a)(1)(D), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior subpart E, consisting of sections 5121 to 5124, related to retail dealers, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

A prior subpart F was redesignated subpart B of this part.

Another prior subpart F, consisting of sections 5131 to 5134, related to nonbeverage domestic drawback claimants, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

A prior subpart G, consisting of sections 5141 to 5149, related to general provisions, prior to repeal, except for sections 5142, 5143, 5145, and 5146, by Pub. L. 109–59, title XI, § 11125(a)(1)(E), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior subpart G, consisting of sections 5141 to 5149, 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

2005—Pub. L. 109–59, title XI, § 11125(b)(10), Aug. 10, 2005, 119 Stat. 1955, added subpart heading and items 5131 and 5132.

§ 5131. Packaging distilled spirits for industrial uses

(a) General

The Secretary may, at his discretion and under such regulations as he may prescribe, authorize a dealer (as defined in section 5121(c)) engaging in the business of supplying distilled spirits for industrial uses to package distilled spirits, on which the tax has been paid or determined, for such uses in containers of a capacity in excess of 1 wine gallon and not more than 5 wine gallons.

(b) Cross reference

For provisions relating to containers of distilled spirits, see section 5206.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1343, § 5116; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–39, title VIII, § 807(a)(12), July 26, 1979, 93 Stat. 282; Pub. L. 98–369, div. A, title IV, § 454(c)(3), July 18, 1984, 98 Stat. 821; renumbered § 5131 and amended Pub. L. 109–59, title XI, § 11125(b)(11), Aug. 10, 2005, 119 Stat. 1956.)

PRIOR PROVISIONS

A prior section 5131 was renumbered section 5111 of this title.

Another prior section 5131, act Aug. 16, 1954, ch. 736, 68A Stat. 622, related to eligibility for drawback and rate of tax, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

2005—Pub. L. 109–59, § 11125(b)(11), renumbered section 5116 of this title as this section and transferred section to this subpart so as to appear after subpart analysis.

Subsec. (a). Pub. L. 109–59, § 11125(b)(11), inserted ''(as defined in section 5121(c))'' after ''dealer''.

1984—Subsec. (b). Pub. L. 98–369 substituted ''reference'' for ''references'' in heading, struck out former par. (1) which provided a cross reference to section 5205(a)(1) of this title regarding stamps for immediate containers, and struck out designation ''(2)'' preceding provisions relating to containers of distilled spirits.

1979—Subsec. (b)(1). Pub. L. 96–39 substituted ''section 5205(a)(1)'' for ''section 5205(a)(2)''.

1976—Subsec. (a). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109–59 effective July 1, 2008, but inapplicable to taxes imposed for periods before such date, see section 11125(c) of Pub. L. 109–59, set out as a note under section 5002 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective July 1, 1985, see section 456(b) of Pub. L. 98–369, set out as an Effective Date note under section 5101 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.

§ 5132. Prohibited purchases by dealers

(a) In general

Except as provided in regulations prescribed by the Secretary, it shall be unlawful for a dealer to purchase distilled spirits for resale from any person other than a wholesale dealer in liquors who is required to keep the records prescribed by section 5121.

(b) Limited retail dealers

A limited retail dealer may lawfully purchase distilled spirits for resale from a retail dealer in liquors.

(c) Penalty and forfeiture

For penalty and forfeiture provisions applicable to violations of subsection (a), see sections 5687 and 7302.

(Added Pub. L. 109–59, title XI, § 11125(b)(12), Aug. 10, 2005, 119 Stat. 1956.)

PRIOR PROVISIONS

A prior section 5132 was renumbered section 5112 of this title.

Another prior section 5132, act Aug. 16, 1954, ch. 736, 68A Stat. 623, related to registration and regulation of persons claiming drawback, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5133 was renumbered section 5113 of this title.

Another prior section 5133, act Aug. 16, 1954, ch. 736, 68A Stat. 623, related to investigation of claims, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5134 was renumbered section 5114 of this title.

Another prior section 5134, acts Aug. 16, 1954, ch. 736, 68A Stat. 623; Mar. 30, 1955, ch. 18, § 3(b)(2), 69 Stat. 15; Mar. 29, 1956, ch. 115, § 3(b)(2), 70 Stat. 67; Mar. 29, 1957, Pub. L. 85–12, § 3(b)(2), 71 Stat. 10; June 30, 1958, Pub. L. 85–475, § 3(b)(2), 72 Stat. 259, related to drawbacks, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5141, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1346, related to registration, prior to repeal by Pub. L. 109–59, title XI, § 11125(a)(1)(E), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5141, act Aug. 16, 1954, ch. 736, 68A Stat. 624, related to registration, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5142 was renumbered section 5732 of this title.

Another prior section 5142, act Aug. 16, 1954, ch. 736, 68A Stat. 624, related to payment of tax, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5143 was renumbered section 5733 of this title.

Another prior section 5143, act Aug. 16, 1954, ch. 736, 68A Stat. 624, related to time for filing returns and cross-referred to penalty provisions for failure to file returns or for making false or fraudulent returns, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5144, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1348, authorized and directed Secretary or his delegate to procure the necessary stamps for payment of special taxes and to make needful regulations relative thereto, prior to repeal by Pub. L. 94–455, title XIX, § 1905(b)(3)(D)(i), Oct. 4, 1976, 90 Stat. 1822.

Another prior section 5144, act Aug. 16, 1954, ch. 736, 68A Stat. 624, related to liability for occupational taxes, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5145 was renumbered section 5734 of this title.

Another prior section 5145, act Aug. 16, 1954, ch. 736, 68A Stat. 625, related to ''supply of stamps'', prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5146 was renumbered section 5123 of this title.

Another prior section 5146, act Aug. 16, 1954, ch. 736, 68A Stat. 625, contained cross references to provisions respecting posting stamp in place of business, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5147, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1348, related to application of former subpart G, prior to repeal by Pub. L. 109–59, title XI, § 11125(a)(1)(E), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5147, act Aug. 16, 1954, ch. 736, 68A Stat. 626, made a cross reference to provision respecting keeping of list of special taxpayers for public inspection, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5148, added Pub. L. 108–357, title II, § 246(a), Oct. 22, 2004, 118 Stat. 1448, related to suspension of occupational tax, prior to repeal by Pub. L. 109–59, title XI, § 11125(a)(1)(E), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5148 was renumbered section 5149 of this title, prior to repeal by Pub. L. 109–59.

Another prior section 5148, act Aug. 16, 1954, ch. 736, 68A Stat. 626, related to ''Application of State laws'', prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5149, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1348, § 5148; amended Pub. L. 94–455, title XIX, § 1905(b)(3)(E), Oct. 4, 1976, 90 Stat. 1822; renumbered § 5149, Pub. L. 108–357, title II, § 246(a), Oct. 22, 2004, 118 Stat. 1448, contained cross references to provisions imposing penalties, prior to repeal by Pub. L. 109–59, title XI, § 11125(a)(1)(E), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5149, act Aug. 16, 1954, ch. 736, 68A Stat. 626, related to ''Application of subpart'', prior to the general revision of this chapter by Pub. L. 85–859.

EFFECTIVE DATE

Section effective July 1, 2008, but inapplicable to taxes imposed for periods before such date, see section 11125(c) of Pub. L. 109–59, set out as an Effective Date of 2005 Amendment note under section 5002 of this title.

Subchapter B—Qualification Requirements for Distilled Spirits Plants

Sec.
5171. Establishment.
5172. Application.
5173. Bonds.
[5174. Repealed.]
5175. Export bonds.
5176. New or renewed bonds.
5177. Other provisions relating to bonds.
5178. Distilled spirits plants.[1]
5179. Registration of stills.
5180. Signs.
5181. Distilled spirits for fuel use.
5182. Cross references.

PRIOR PROVISIONS

A prior subchapter B, Distilleries, consisted of part I, Establishment, part II, Operation, and part III, General Provisions Relating to Distilleries and Distilled Spirits, and consisted of sections 5171 to 5180, 5191 to 5197, and 5211 to 5217, respectively, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1980—Pub. L. 96–223, title II, § 232(e)(2)(F), Apr. 2, 1980, 94 Stat. 280, added item 5181 and redesignated former item 5181 as 5182.

1979—Pub. L. 96–39, title VIII, § 807(b)(4), July 26, 1979, 93 Stat. 290, substituted ''Bonds'' for ''Qualification bonds'' in item 5173, struck out item 5174 ''Withdrawal bonds'', and substituted ''Distilled spirits plants'' for ''Premises of distilled spirits plants'' in item 5178.

§ 5171. Establishment

(a) Certain operations may be conducted only on bonded premises

Except as otherwise provided by law, operations as a distiller, warehouseman, or processor may be conducted only on the bonded premises of a distilled spirits plant by a person who is qualified under this subchapter.

(b) Establishment of distilled spirits plant

A distilled spirits plant may be established only by a person who intends to conduct at such plant operations as a distiller, as a warehouseman, or as both.

(c) Registration

(1) In general

Each person shall, before commencing operations at a distilled spirits plant (and at such other times as the Secretary may by regulations prescribe), make application to the Secretary for, and receive notice of, the registration of such plant.

(2) Application required where new operations are added

No operation in addition to those set forth in the application made pursuant to paragraph

[1] So in original. Does not conform to section catchline.

(1) may be conducted at a distilled spirits plant until the person has made application to the Secretary for, and received notice of, the registration of such additional operation.

(3) Secretary may establish minimum capacity and level of activity requirements

The Secretary may by regulations prescribe for each type of operation minimum capacity and level of activity requirements for qualifying premises as a distilled spirits plant.

(4) Applicant must comply with law and regulations

No plant (or additional operation) shall be registered under this section until the applicant has complied with the requirements of law and regulations in relation to the qualification of such plant (or additional operation).

(d) Permits

(1) Requirements

Each person required to file an application for registration under subsection (c) whose distilled spirits operations (or any part thereof) are not required to be covered by a basic permit under the Federal Alcohol Administration Act (27 U.S.C. secs. 203 and 204) shall, before commencing the operations (or part thereof) not so covered, apply for and obtain a permit under this subsection from the Secretary to engage in such operations (or part thereof). Subsections (b), (c), (d), (e), (f), (g), and (h) of section 5271 are hereby made applicable to persons filing applications and permits required by or issued under this subsection.

(2) Exceptions for agencies of a State or political subdivisions

Paragraph (1) shall not apply to any agency of a State or political subdivision thereof or to any officer or employee of any such agency, and no such agency, officer, or employee shall be required to obtain a permit thereunder.

(e) Cross references

(1) For penalty for failure of a distiller or processor to file application for registration as required by this section, see section 5601(a)(2).

(2) For penalty for the filing of a false application by a distiller, warehouseman, or processor of distilled spirits, see section 5601(a)(3).

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1349; amended Pub. L. 94–455, title XIX, §§ 1905(a)(13), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1820, 1834; Pub. L. 96–39, title VIII, § 805(a), July 26, 1979, 93 Stat. 274.)

REFERENCES IN TEXT

The Federal Alcohol Administration Act, referred to in subsec. (d)(1), is act Aug. 29, 1935, ch. 814, 49 Stat. 977, as amended, which is classified generally to subchapter I (§ 201 et seq.) of chapter 8 of Title 27, Intoxicating Liquors. The basic permit is covered by sections 203 and 204 of Title 27. For complete classification of this Act to the Code, see section 201 of Title 27 and Tables.

PRIOR PROVISIONS

A prior section 5171, act Aug. 16, 1954, ch. 736, 68A Stat. 627, related to ''premises prohibited for distilling'', prior to the general revision of this chapter by Pub. L. 85–859. See sections 5178(a)(1)(B), (b), (c)(2), and 5505(b) of this title.

Provisions similar to those comprising subsecs. (a), (b)(1) and (c) of this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85–859, as follows:

Present subsecs.:	*Prior sections*
(a)	5172, 5175(a), 5177(a), 5178, 5231, 5243(a), 5271(a), 5301–5303, 5305, 5331(a)(1).
(b)(1)	5301–5303, 5304(a)(1).
(c)	5175(b), 5271(b).

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 627 to 631, 643, 645, 650, 654, 655.

AMENDMENTS

1979—Subsecs. (a), (b). Pub. L. 96–39 added subsecs. (a) and (b) and redesignated former subsecs. (a) and (b) as (c) and (d), respectively.

Subsec. (c). Pub. L. 96–39 redesignated former subsec. (a) as (c) and inserted provisions relating to an application requirement where new operations are added and permitting the Secretary to establish minimum capacity and level of activity requirements. Former subsec. (c) redesignated (e).

Subsec. (d). Pub. L. 96–39 redesignated former subsec. (b) as (d) and substituted reference to subsection (c) for reference to subsection (a) and struck out reference to section 5274.

Subsec. (e). Pub. L. 96–39 redesignated former subsec. (c) as (e) and substituted reference to processor for reference to rectifier and reference to warehouseman for reference to bonded warehouseman and struck out reference to bottler.

1976—Subsec. (b)(1). Pub. L. 94–455, §§ 1905(a)(13)(A), 1906(b)(13)(A), struck out ''49 Stat. 978;'' before ''27 U.S.C. 203, 204'' in parenthetical provisions after ''Federal Alcohol Administration Act'' and struck out ''or his delegate'' after ''Secretary''.

Subsec. (b)(3). Pub. L. 94–455, § 1905(a)(13)(B), struck out par. (3) under which persons who were qualified on June 30, 1959, to perform operations for which a permit was required covering operations not required to be covered by a basic permit under the Federal Alcohol Administration Act had been allowed to continue operations pending a reasonable opportunity to make application for a permit.

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)(13) 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.

TRANSITIONAL RULES RELATING TO ALL-IN-BOND METHOD

Section 809(a), (b) of Pub. L. 96–39, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(a) NEW APPLICATION REQUIRED.—

''(1) IN GENERAL.—For purposes of section 5171 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to establishment of distilled spirits plants), each person who intends to continue any distilled spirits operation at a premises after December 31, 1979, shall be treated as intending to establish a distilled spirits plant on such premises on January 1, 1980.

''(2) CURRENT REGISTRATION TO REMAIN IN EFFECT.—Notwithstanding paragraph (1), the registration of

any person under section 5171 of the Internal Revenue Code of 1986 which is in effect on December 31, 1979, shall remain in effect until final action on the application required by paragraph (1).

''(b) CONTINUING OPERATIONS AT EXISTING PREMISES.—With respect to any operation which was permitted to be conducted on May 1, 1979, at premises which were registered on such date under section 5171 of the Internal Revenue Code of 1986, the determination of whether such premises qualify for registration under such section as a distilled spirits plant shall be made without regard to whether or not—

''(1) the person engaged in operations at such premises is registered under such section with respect to such premises as a distiller or warehouseman, and

''(2) such premises meet the minimum capacity and level of activity requirements for that type of operation.''

§ 5172. Application

The application for registration required by section 5171(c) shall, in such manner and form as the Secretary may by regulations prescribe, identify the applicant and persons interested in the business (or businesses) covered by the application, show the nature, location and extent of the premises, show the specific type or types of operations to be conducted on such premises, and show any other information which the Secretary may by regulations require for the purpose of carrying out the provisions of this chapter.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1349; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–39, title VIII, § 807(a)(13), July 26, 1979, 93 Stat. 282.)

PRIOR PROVISIONS

A prior section 5172, act Aug. 16, 1954, ch. 736, 68A Stat. 627, related to ''conditions precedent to carrying on business of distilling'', prior to the general revision of this chapter by Pub. L. 85–859 and is covered in part by this section. See also sections 5171(a), 5173(a), 5178(a)(1)(A), and 5601(a)(2), (4) of this title.

Provisions similar to those comprising this section were contained in prior sections 5175(a), 5178, 5231, 5243(a), 5271, 5301 to 5303, 5305, and 5331(a)(1), act Aug. 16, 1954, ch. 736, 68A Stat. 628, 631, 643, 645, 650, 654, 655, 657, 661, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1979—Pub. L. 96–39 substituted ''section 5171(c)'' for ''section 5171(a)''.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

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.

§ 5173. Bonds

(a) Operations at, and withdrawals from, distilled spirits plant must be covered by bond

(1) Operations

No person intending to establish a distilled spirits plant may commence operations at such plant unless such person has furnished bond covering operations at such plant.

(2) Withdrawals

No distilled spirits (other than distilled spirits withdrawn under section 5214 or 7510) may be withdrawn from bonded premises except on payment of tax unless the proprietor of the bonded premises has furnished bond covering such withdrawal.

(b) Operations bonds

The bond required by paragraph (1) of subsection (a) shall meet the requirements of paragraph (1), (2), or (3) of this subsection:

(1) One plant bond

The bond covers operations at a single distilled spirits plant.

(2) Adjacent wine cellar bond

The bond covers operations at a distilled spirits plant and at an adjacent bonded wine cellar.

(3) Area bond

The bond covers operations at 2 or more distilled spirits plants (and adjacent bonded wine cellars) which—

(A) are located in the same geographical area (as designated in regulations prescribed by the Secretary), and

(B) are operated by the same person (or, in the case of a corporation, by such corporation and its controlled subsidiaries).

(c) Withdrawal bonds

The bond required by paragraph (2) of subsection (a) shall cover withdrawals from 1 or more bonded premises the operations at which could be covered by the same operations bond under subsection (b).

(d) Unit bonds

Under regulations prescribed by the Secretary, the requirements of paragraphs (1) and (2) of subsection (a) shall be treated as met by a unit bond which covers both operations at, and withdrawals from, 1 or more bonded premises which could be covered by the same operations bond under subsection (b).

(e) Terms and conditions

(1) In general

Any bond furnished under this section shall be conditioned that the person furnishing the bond—

(A) will faithfully comply with all provisions of law and regulations relating to the activities covered by such bond, and

(B) will pay—

(i) all taxes imposed by this chapter, and

(ii) all penalties incurred by, or fines imposed on, such person for violation of any such provision.

(2) Other terms and conditions

Any bond furnished under this section shall contain such other terms and conditions as may be required by regulations prescribed by the Secretary.

(f) Amount

(1) In general

The penal sum of any bond shall be the amount determined under regulations prescribed by the Secretary.

(2) Maximum and minimum amount

The Secretary shall by regulations prescribe a minimum amount and a maximum amount

for each type of bond which may be furnished under this section.

(g) Total amount available

The total amount of any bond furnished under this section shall be available for the satisfaction of any liability incurred under the terms and conditions of such bond.

(h) Special rules

For purposes of this section—

(1) Withdrawal bonds

In the case of any bond furnished under this section which covers withdrawals but not operations—

(A) such bond shall be in addition to the operations bond, and

(B) if distilled spirits are withdrawn under such bond, the operations bond shall no longer cover liability for payment of the tax on the spirits withdrawn.

(2) Adjacent wine cellars

(A) Requirements

No wine cellar shall be treated as being adjacent to a distilled spirits plant unless—

(i) such distilled spirits plant is qualified under this subchapter for the production of distilled spirits, and

(ii) such wine cellar and the distilled spirits plant are operated by the same person (or, in the case of a corporation, by such corporation and its controlled subsidiaries).

(B) Bond in lieu of wine cellar bond

In the case of any adjacent wine cellar, a bond furnished under this section which covers operations at such wine cellar shall be in lieu of any bond which would otherwise be required under section 5354 with respect to such wine cellar (other than supplemental bonds required under the second sentence of section 5354).

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1349; amended Pub. L. 91–659, § 4, Jan. 8, 1971, 84 Stat. 1966; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–39, title VIII, § 805(c), July 26, 1979, 93 Stat. 276.)

PRIOR PROVISIONS

A prior section 5173, act Aug. 16, 1954, ch. 736, 68A Stat. 628, related to ''distillery fixtures and equipment'', prior to the general revision of this chapter by Pub. L. 85–859. See sections 5178(a)(1)(A), (2)(B)(C), (c)(1) and 5202(b) of this title.

Provisions similar to those comprising subsecs. (a), (b), (b)(1), (b)(1)(A) to (C), (b)(3), (c), (c)(1), (d) and (e)(1) of this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85–859, as follows:

Present subsecs.:	*Prior sections*
(a)	5172, 5176(a), 5231, 5232(a), 5272(a), 5301–5303, 5304(a)(5), 5305, 5311(a)(3).
(b)	5176 (a), (d).
(b)(1)	5176(a), 5177(c).
(b)(1)(A)–(C)	5177(b)(1)–(3).
(b)(3)	5177(b)(4).
(c)	5232(a), 5302, 5303, 5306, 5331(a)(3).
(c)(1)	5232(a).
(d)	5272(a).
(e)(1)	5304(a)(5).

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 627, 629 to 631, 643, 650, 654, 655, 657, 662.

AMENDMENTS

1979—Pub. L. 96–39, among other changes, struck out provisions relating to liens on distillery property and the furnishing of indemnity bonds as methods of securing tax payments and inserted provisions relating to the one plant operations bond, which will cover the operations at a bonded wine cellar which is adjacent to the distilled spirits plant and operated by the same person.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1971—Subsec. (b)(1). Pub. L. 91–659, § 4(b), extended exception clause in parenthetical by making reference to cl. (4) of this subsection.

Subsec. (b)(2). Pub. L. 91–659, § 4(c), inserted reference to par. (4).

Subsec. (b)(4). Pub. L. 91–659, § 4(a), added par. (4).

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 1971 AMENDMENT

Amendment by Pub. L. 91–659 effective on first day of first calendar month which begins more than 90 days after Jan. 8, 1971, see section 6 of Pub. L. 91–659, set out as an Effective Date note under section 5066 of this title.

TRANSITIONAL RULES RELATING TO ALL-IN-BOND METHOD

Section 809(c) of Pub. L. 96–39, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''For purposes of section 5173 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to bonds), each person who intends to continue operation at a premises after December 31, 1979, shall be treated as intending to establish a distilled spirits plant on such premises on January 1, 1980.''

[§ 5174. Repealed. Pub. L. 96–39, title VIII, § 807(a)(14), July 26, 1979, 93 Stat. 282]

Section, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1352; amended Pub. L. 94–455, title XIX, §§ 1905(a)(14), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1820, 1834, related to withdrawal bonds.

A prior section 5174, act Aug. 16, 1954, ch. 736, 68A Stat. 630, related to ''registry of stills'', prior to the general revision of this chapter by Pub. L. 85–859. See sections 5179 and 5505(d) of this title.

Provisions similar to those comprising subsec. (a)(1) of section 5174, added by Pub. L. 85–859, title I, § 201, Sept. 2, 1958, 725 Stat. 1352, relating to the withdrawal from bonded premises of distilled spirits on the furnishing of a bond by the proprietor of the bonded premises to secure payment of the tax on such spirits, were contained in prior sections 5176(b) and 5232(b), act Aug. 16, 1954, ch. 736, 68A Stat. 629, 643, prior to the general revision of this chapter by Pub. L. 85–859.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1980, see section 810 of Pub. L. 96–39, set out as an Effective Date of 1979 Amendment note under section 5001 of this title.

§ 5175. Export bonds

(a) Requirements

No distilled spirits shall be withdrawn from bonded premises for exportation, or for transfer to a customs bonded warehouse, without payment of tax unless the exporter has furnished bond to cover such withdrawal under such regulations and conditions, and in such form and penal sum, as the Secretary may prescribe.

(b) Exception where proprietor withdraws spirits for exportation

In the case of distilled spirits withdrawn from bonded premises by the proprietor for exportation without payment of tax, the bond of such proprietor required to be furnished under paragraph (1) of section 5173(a) covering such premises shall cover such exportation, and subsection (a) shall not apply.

(c) Cancellation or credit of export bonds

The bonds given under subsection (a) shall be cancelled or credited and the bonds liable under subsection (b) credited if there is such proof of exportation as the Secretary may by regulations require.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1352; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95–176, § 3(b), Nov. 14, 1977, 91 Stat. 1365; Pub. L. 96–39, title VIII, § 807(a)(15), July 26, 1979, 93 Stat. 282; Pub. L. 105–34, title XIV, § 1412(a), Aug. 5, 1997, 111 Stat. 1046.)

PRIOR PROVISIONS

A prior section 5175, act Aug. 16, 1954, ch. 736, 68A Stat. 628, related to ''notice of business of distiller'', prior to the general revision of this chapter by Pub. L. 85–859. See sections 5171(a), (c) and 5172 of this title.

Provisions similar to those comprising this section were contained in a prior section 5247(a), act Aug. 16, 1954, ch. 736, 68A Stat. 647, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1997—Subsec. (c). Pub. L. 105–34 substituted ''if there is such proof of exportation as the Secretary may by regulations require.'' for ''on the submission of such evidence, records, and certification indicating exportation as the Secretary may by regulations prescribe.''

1979—Subsec. (a). Pub. L. 96–39, § 807(a)(15)(A), struck out ''for storage therein pending exportation'' after ''customs bonded warehouse''.

Subsec. (b). Pub. L. 96–39, § 807(a)(15)(B), substituted ''from bonded premises by the proprietor for exportation without payment of tax, the bond of such proprietor required to be furnished under paragraph (1) of section 5173(a) covering such premises shall cover such exportation, and subsection (a) shall not apply'' for ''for exportation without payment of tax on application of the proprietor of bonded premises, the bond of such proprietor covering such bonded premises shall cover such exportation and subsection (a) shall not be applicable''.

1977—Subsec. (a). Pub. L. 95–176 required export bonds for withdrawals from bonded premises, without payment of tax, for transfer to a customs bonded warehouse for storage therein pending exportation.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1412(b) of Pub. L. 105–34 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act [Aug. 5, 1997].''

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 1977 AMENDMENT

Amendment by Pub. L. 95–176 effective on first day of first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95–176, set out as a note under section 5003 of this title.

CONTINUATION OF DISTILLER'S NOTICE AND BOND

Section 210(f) of Pub. L. 85–859, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''Notwithstanding any provision of section 5175 or 5176(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], the Secretary of the Treasury or his delegate may waive, as to registered distillers or registered fruit distillers qualified to operate under bond on April 30, 1959, requirements for filing notice and executing new bond on May 1, 1959, if the distiller and the surety have executed consent to continuation of the terms of the existing bond to cover operations from May 1, 1959, to June 30, 1959, both dates inclusive. Nothing in this subsection shall be construed as limiting the authority of the Secretary of the Treasury or his delegate under section 5176(b) or (c) of the Internal Revenue Code of 1986.''

§ 5176. New or renewed bonds

(a) General

New bonds shall be required under sections 5173 and 5175 in case of insolvency or removal of any surety, and may, at the discretion of the Secretary, be required in any other contingency affecting the validity or impairing the efficiency of such bond.

(b) Bonds

If the proprietor of a distilled spirits plant fails or refuses to furnish a bond required under paragraph (1) of section 5173(a) or to renew the same, and neglects to immediately withdraw the spirits and pay the tax thereon, the Secretary shall proceed to collect the tax.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1353; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–39, title VIII, § 807(a)(16), July 26, 1979, 93 Stat. 282.)

PRIOR PROVISIONS

A prior section 5176(c), act Aug. 16, 1954, ch. 736, 68A Stat. 629, consisted of provisions similar to those comprising subsec. (a) of this section, prior to the general revision of this chapter by Pub. L. 85–859.

Prior section 5176(a), (b), (d), (e), related to distiller's bond: form and approval; additional bond; exemption from survey requirements; and cross references, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5173(a), (b), 5174(a)(1) and 5177 of this title.

Provisions similar to those comprising this section were contained in prior section 5232(c), act Aug. 16, 1954, ch. 736, 68A Stat. 643, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96–39, § 807(a)(16)(A), struck out '', 5174,'' after ''sections 5173''.

Subsec. (b). Pub. L. 96–39, § 807(a)(16)(A), substituted reference to paragraph (1) of section 5173(a) for reference to section 5173(c) and struck out provisions relating to failure or refusal of the proprietor of a distilled spirits plant to withdraw any spirits from storage on bonded premises before the expiration of the time limited on the bond and pay the tax thereon.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

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.

CONTINUATION OF DISTILLER'S NOTICE AND BOND

Authority to waive requirements for filing notice and executing new bond on May 1, 1959, if distiller and surety have executed consent to continuation of the terms of existing bond to cover operations from May 1, 1959 to June 30, 1959, see section 210(f) of Pub. L. 85–859, set out as a note under section 5175 of this title.

§ 5177. Other provisions relating to bonds

(a) General provisions relating to bonds

The provisions of section 5551 shall be applicable to the bonds required by or given under sections 5173 and 5175.

(b) Cross references

(1) For deposit of United States bonds or notes in lieu of sureties, see section 9303 of title 31, United States Code.

(2) For penalty and forfeiture for failure or refusal to give bond, or for giving false, forged, or fraudulent bond, or carrying on the business of a distiller without giving bond, see sections 5601(a)(4), 5601(a)(5), 5601(b), and 5615(3).

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1353; amended Pub. L. 94–455, title XIX, § 1905(b)(6)(B), Oct. 4, 1976, 90 Stat. 1823; Pub. L. 96–39, title VIII, § 807(a)(17), July 26, 1979, 93 Stat. 282; Pub. L. 97–258, § 3(f)(3), Sept. 13, 1982, 96 Stat. 1064.)

PRIOR PROVISIONS

A prior section 5177, act Aug. 16, 1954, ch. 736, 68A Stat. 628, related to ''conditions of approval of distiller's bond'', prior to the general revision of this chapter by Pub. L. 85–859. See section 5173(b)(1) of this title.

Prior section 5177(a) was a general provision. See section 5171(a) of this title.

Prior section 5177(b)(1) to (3) related to ownership, consent of owner, or indemnity bond. See section 5173(b)(1)(A) to (C) of this title.

Prior section 5177(b)(4) related to judicial sale. See section 5173(b)(3) of this title.

Prior section 5177(c) related to situation of distillery. See sections 5173(b)(1) and 5551(c) of this title.

Prior section 5177(d) was a cross reference to penalty for improper approval of distiller's bond, and to general provisions relating to approval, disapproval and appeal on bonds. See subsec. (a) of this section and section 5551 of this title.

Provisions similar to those comprising subsec. (b) of this section were contained in prior sections 5176(e) and 5232(d), act Aug. 16, 1954, ch. 736, 68A Stat. 630, 644, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1982—Subsec. (b)(1). Pub. L. 97–258 substituted ''section 9303 of title 31, United States Code'' for ''6 U.S.C. 15''.

1979—Subsec. (a). Pub. L. 96–39 struck out '', 5174,'' after ''sections 5173''.

1976—Subsec. (b)(2). Pub. L. 94–455 substituted ''5601(b)'' for ''5601(b)(2)''.

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 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.

§ 5178. Premises of distilled spirits plants

(a) Location, construction, and arrangement

(1) General

(A) The premises of a distilled spirits plant shall be as described in the application required by section 5171(c). The Secretary shall prescribe such regulations relating to the location, construction, arrangement, and protection of distilled spirits plants as he deems necessary to facilitate inspection and afford adequate security to the revenue.

(B) No distilled spirits plant for the production of distilled spirits shall be located in any dwelling house, in any shed, yard, or inclosure connected with any dwelling house, or on board any vessel or boat, or on premises where beer or wine is made or produced, or liquors of any description are retailed, or on premises where any other business is carried on (except when authorized under subsection (b)).

(C) Notwithstanding any other provision of this chapter relating to distilled spirits plants the Secretary may approve the location, construction, arrangement, and method of operation of any establishment which was qualified to operate on the date preceding the effective date of this section if he deems that such location, construction, arrangement, and method of operation will afford adequate security to the revenue.

(2) Production operations

(A) Any person establishing a distilled spirits plant may, as described in his application for registration, produce distilled spirits from any source or substance.

(B) The distilling system shall be continuous and shall be so designed and constructed and so connected as to prevent the unauthorized removal of distilled spirits before their production gauge.

(C) The Secretary is authorized to order and require—

(i) such identification of, changes of, and additions to, distilling apparatus, connecting pipes, pumps, tanks, and any machinery connected with or used in or on the premises, and

(ii) such fastenings, locks, and seals to be part of any of the stills, tubs, pipes, tanks, and other equipment, as he may deem necessary to facilitate inspection and afford adequate security to the revenue.

(3) Warehousing operations

(A) Any person establishing a distilled spirits plant for the production of distilled spirits may, as described in the application for registration, warehouse bulk distilled spirits on the bonded premises of such plant.

(B) Distilled spirits plants for the bonded warehousing of bulk distilled spirits elsewhere than as described in subparagraph (A) may be established at the discretion of the Secretary by proprietors referred to in subparagraph (A) or by other persons under such regulations as the Secretary shall prescribe.

(4) Processing operations

Any person establishing a distilled spirits plant may, as described in the application for

registration, process distilled spirits on the bonded premises of such plant.

(b) Use of premises for other businesses

The Secretary may authorize the carrying on of such other businesses (not specifically prohibited by section 5601(a)(6)) on premises of distilled spirits plants, as he finds will not jeopardize the revenue. Such other businesses shall not be carried on until an application to carry on such business has been made to and approved by the Secretary.

(c) Cross references

(1) For provisions authorizing the Secretary to require installation of meters, tanks, and other apparatus, see section 5552.

(2) For penalty for distilling on prohibited premises, see section 5601(a)(6).

(3) For provisions relating to the bottling of distilled spirits labeled as alcohol, see section 5235.

(4) For provisions relating to the unauthorized use of distilled spirits in any manufacturing process, see section 5601(a)(9).

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1353; amended Pub. L. 91–659, § 5, Jan. 8, 1971, 84 Stat. 1966; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95–176, § 2(b), Nov. 14, 1977, 91 Stat. 1364; Pub. L. 96–39, title VIII, §§ 805(b)(1), 807(a)(18), July 26, 1979, 93 Stat. 275, 283.)

PRIOR PROVISIONS

A prior section 5178, act Aug. 16, 1954, ch. 736, 68A Stat. 631, related to plan of distillery, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5171(a) and 5172 of this title.

Provisions similar to those comprising subsecs. (a)(1)(A), (B), (2)(A) to (C), (3), (4)(A), (B), (D), (5), (b), (c)(1), (2), (4) of this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85–859, as follows:

Present subsecs.:	*Prior sections*
(a)(1)(A)	5172, 5173(a), 5231, 5271(a), 5273(a), 5305.
(a)(1)(B)	5171(a).
(a)(2)(A)	5307.
(a)(2)(B)	5173(b).
(a)(2)(C)	5173(a), (c).
(a)(3)	5231, 5243(a), 5302.
(a)(4)(A)	5243(a).
(a)(4)(B), (D)	5271(a), 5273(a).
(a)(5)	5303, 5305, 5331(a)(1).
(b)	5171(a).
(c)(1)	5173(d)(1), 5273(b)(1).
(c)(2)	5171(b).
(c)(4)	5216(b).

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 627, 628, 641, 643, 645, 650, 654, 655, 657, 661.

AMENDMENTS

1979—Subsec. (a)(1)(A). Pub. L. 96–39, § 807(a)(18), substituted ''section 5171(c)'' for ''section 5171(a)''.

Subsec. (a)(2). Pub. L. 96–39, § 805(b)(1), substituted in heading ''operations'' for ''facilities'' and in subpar. (A) ''produce'' for ''provided facilities which may be used for the production of'' and struck out in subpar. (B) ''closed at all points where potable or readily recoverable spirits are present and the distilling apparatus'' after ''shall be continuous and''.

Subsec. (a)(3). Pub. L. 96–39, § 805(b)(1), substituted in heading ''Warehousing operations'' for ''Bonded warehousing facilities'' and in subpar. (A) ''the application'' for ''his application'' and ''warehouse bulk distilled spirits'' for ''establish warehousing facilities'' and struck out subpar. (C) which related to facilities for the storage on bonded premises of distilled spirits in casks, packages, cases, or similar portable approved containers and subpar. (D), which related to the establishment of a portion of the premises established under subpar. (C) as an export storage facility for the storage of distilled spirits returned to bonded premises under section 5215(b).

Subsec. (a)(4). Pub. L. 96–39, § 805(b)(1), substituted provisions relating to processing operations for provisions relating to bottling facilities.

Subsec. (a)(5). Pub. L. 96–39, § 805(b)(1), struck out par. (5) which related to arrangement and segregation of denaturing facilities by regulation of the Secretary.

1977—Subsec. (a)(3)(D). Pub. L. 95–176 added subpar. (D).

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1971—Subsec. (a)(4)(A). Pub. L. 91–659 substantially reenacted existing provisions and added cl. (ii) and the following sentence.

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 1977 AMENDMENT

Amendment by Pub. L. 95–176 effective on first day of first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95–176, set out as a note under section 5003 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91–659 effective on first day of first calendar month which begins more than 90 days after Jan. 8, 1971, see section 6 of Pub. L. 91–659, set out as an Effective Date note under section 5066 of this title.

§ 5179. Registration of stills

(a) Requirements

Every person having in his possession or custody, or under his control, any still or distilling apparatus set up, shall register such still or apparatus with the Secretary immediately on its being set up, by subscribing and filing with the Secretary a statement, in writing, setting forth the particular place where such still or distilling apparatus is set up, the kind of still and its capacity, the owner thereof, his place of residence, and the purpose for which said still or distilling apparatus has been or is intended to be used (except that stills or distilling apparatus not used or intended to be used for the distillation, redistillation, or recovery of distilled spirits are not required to be registered under this section).

(b) Cross references

(1) For penalty and forfeiture provisions relating to unregistered stills, see sections 5601(a)(1) and 5615(1).

(2) For provisions requiring notification to set up a still, boiler, or other vessel for distilling, see section 5101(a)(2).

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1355; amended Pub. L. 94–455, title XIX, §§ 1905(b)(6)(C), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1823, 1834; Pub. L. 98–369, div. A, title IV, § 451(b)(1), July 18, 1984, 98 Stat. 819.)

PRIOR PROVISIONS

A prior section 5179, act Aug. 16, 1954, ch. 736, 68A Stat. 631, related to ''survey of distillery'', prior to the general revision of this chapter by Pub. L. 85–859.

Provisions similar to those comprising this section were contained in prior sections 5174 and 5275(2), act Aug. 16, 1954, ch. 736, 68A Stat. 630, 651, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1984—Subsec. (b)(2). Pub. L. 98–369 substituted ''notification to set up a still, boiler, or other vessel for distilling, see section 5101(a)(2)'' for ''permit to set up a still, boiler or other vessel for distilling, see section 5105''.

1976—Subsec. (a). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (b)(1). Pub. L. 94–455, § 1905(b)(6)(C), struck out '', 5601(b)(1),'' after ''5601(a)(1)''.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective on first day of first calendar month which begins more than 90 days after July 18, 1984, see section 456(a) of Pub. L. 98–369, set out as an Effective Date note under section 5101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(b)(6)(C) 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.

§ 5180. Signs

(a) Requirements

Every person engaged in distilled spirits operations shall place and keep conspicuously on the outside of his place of business a sign showing the name of such person and denoting the business, or businesses, in which engaged. The sign required by this subsection shall be in such form and contain such information as the Secretary shall by regulations prescribe.

(b) Penalty

For penalty and forfeiture relating to failure to post sign or improperly posting such sign, see section 5681.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1355; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–39, title VIII, § 807(a)(19), July 26, 1979, 93 Stat. 283.)

PRIOR PROVISIONS

A prior section 5180, act Aug. 16, 1954, ch. 736, 68A Stat. 632, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

Provisions similar to those comprising this section were contained in prior section 5274, act Aug. 16, 1954, ch. 736, 68A Stat. 651, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96–39 substituted ''distilled spirits operation'' for ''distilling, bonded warehousing, rectifying, or bottling of distilled spirits''.

1976—Subsec. (a). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

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.

§ 5181. Distilled spirits for fuel use

(a) In general

(1) Purposes for which plant may be established

On such application and bond and in such manner as the Secretary may prescribe by regulation, a person may establish a distilled spirits plant solely for the purpose of—

(A) producing, processing, and storing, and

(B) using or distributing,

distilled spirits to be used exclusively for fuel use.

(2) Regulations

In prescribing regulations under paragraph (1) and in carrying out the provisions of this section, the Secretary shall, to the greatest extent possible, take steps to—

(A) expedite all applications;

(B) establish a minimum bond; and

(C) generally encourage and promote (through regulation or otherwise) the production of alcohol for fuel purposes.

(b) Authority to exempt

The Secretary may by regulation provide for the waiver of any provision of this chapter (other than this section or any provision requiring the payment of tax) for any distilled spirits plant described in subsection (a) if the Secretary finds it necessary to carry out the provisions of this section.

(c) Special rules for small plant production

(1) Applications

(A) In general

An application for an operating permit for an eligible distilled spirits plant shall be in such a form and manner, and contain such information, as the Secretary may by regulations prescribe; except that the Secretary shall, to the greatest extent possible, take steps to simplify the application so as to expedite the issuance of such permits.

(B) Receipt of application

Within 15 days of receipt of an application under subparagraph (A), the Secretary shall send a written notice of receipt to the applicant, together with a statement as to whether the application meets the requirements of subparagraph (A). If such a notice is not sent and the applicant has a receipt indicating that the Secretary has received an application, paragraph (2) shall apply as if a written notice required by the preceding sentence, together with a statement that the application meets the requirements of subparagraph (A), had been sent on the 15th day after the date the Secretary received the application.

(C) Multiple applications

If more than one application is submitted with respect to any eligible distilled spirits plant in any calendar quarter, the provisions of this section shall apply only to the first application submitted with respect to such plant during such quarter. For purposes of the preceding sentence, if a corrected or amended first application is filed, such application shall not be considered as a separate application, and the 15-day period referred to in subparagraph (A) shall commence with receipt of the corrected or amended application.

(2) Determination

(A) In general

In any case in which the Secretary under paragraph (1)(B) has notified an applicant of receipt of an application which meets the requirements of paragraph (1)(A), the Secretary shall make a determination as to whether such operating permit is to be issued, and shall notify the applicant of such determination, within 45 days of the date on which notice was sent under paragraph (1)(B).

(B) Failure to make determination

If the Secretary has not notified an applicant within the time prescribed under subparagraph (A), the application shall be treated as approved.

(C) Rejection of application

If the Secretary determines under subparagraph (A) that a permit should not be issued—

(i) the Secretary shall include in the notice to the applicant of such determination under subparagraph (A) detailed reasons for such determination, and

(ii) such determination shall not prejudice any further application for such operating permit.

(3) Bond

No bond shall be required for an eligible distilled spirits plant. For purposes of section 5212 and subsection (e)(2) of this section, the premises of an eligible distilled spirits plant shall be treated as bonded premises.

(4) Eligible distilled spirits plant

The term ''eligible distilled spirits plant'' means a plant which is used to produce distilled spirits exclusively for fuel use and the production from which does not exceed 10,000 proof gallons per year.

(d) Withdrawal free of tax

Distilled spirits produced under this section may be withdrawn free of tax from the bonded premises (and any premises which are not bonded by reason of subsection (c)(3)) of a distilled spirits plant exclusively for fuel use as provided in section 5214(a)(12).

(e) Prohibited withdrawal, use, sale, or disposition

(1) In general

Distilled spirits produced under this section shall not be withdrawn, used, sold, or disposed of for other than fuel use.

(2) Rendering unfit for use

For protection of the revenue and under such regulations as the Secretary may prescribe, distilled spirits produced under this section shall, before withdrawal from the bonded premises of a distilled spirits plant, be rendered unfit for beverage use by the addition of substances which will not impair the quality of the spirits for fuel use.

(f) Definition of distilled spirits

For purposes of this section, the term ''distilled spirits'' does not include distilled spirits produced from petroleum, natural gas, or coal.

(Added Pub. L. 96–223, title II, § 232(e)(1), Apr. 2, 1980, 94 Stat. 278.)

PRIOR PROVISIONS

A prior section 5181 was renumbered 5182 of this title.

EFFECTIVE DATE

Section 232(h)(3) of Pub. L. 96–223 provided that: ''The amendments made by subsection (e) [enacting this section, amending sections 5004, 5005, 5214, and 5601, and repealing provisions set out as a note under section 4081 of this title] shall take effect on the first day of the first calendar month beginning more than 60 days after the date of the enactment of this Act [Apr. 2, 1980].''

§ 5182. Cross references

For provisions requiring recordkeeping by wholesale liquor dealers, see section 5112,[1] and by retail liquor dealers, see section 5122.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1356, § 5181; amended Pub. L. 96–39, title VIII, § 807(a)(20), July 26, 1979, 93 Stat. 283; renumbered § 5182, Pub. L. 96–223, title II, § 232(e)(1), Apr. 2, 1980, 94 Stat. 278; Pub. L. 109–59, title XI, § 11125(b)(16), Aug. 10, 2005, 119 Stat. 1956.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in a prior section 5275(3), act Aug. 16, 1954, ch. 736, 68A Stat. 651, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

2005—Pub. L. 109–59 amended text of section generally. Prior to amendment, text read as follows: ''For provisions requiring payment of special (occupational) tax as wholesale liquor dealer, see section 5111, or as retail liquor dealer, see section 5121.''

1979—Pub. L. 96–39 struck out ''as rectifier, see section 5081, or'' after ''(occupational) tax''.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109–59 effective July 1, 2008, but inapplicable to taxes imposed for periods before such date, see section 11125(c) of Pub. L. 109–59, set out as a note under section 5002 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.

Subchapter C—Operation of Distilled Spirits Plants

Part
I. General provisions.
II. Operations on bonded premises.
[III. Repealed.]

PRIOR PROVISIONS

A prior subchapter C, Internal Revenue Bonded Warehouses, consisted of part I, Establishment, and part II, Operation, and consisted of sections 5231 to 5233 and 5241 to 5252, respectively, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1979—Pub. L. 96–39, title VIII, § 807(b)(5), July 26, 1979, 93 Stat. 290, struck out item relating to Part III ''Operations on bottling premises'' in table of parts comprising subchapter C.

[1] So in original. Probably should be ''5121,''.

PART I—GENERAL PROVISIONS

Sec.
5201. Regulation of operations.
5202. Supervision of operations.
5203. Entry and examination of premises.
5204. Gauging.
[5205. Repealed.]
5206. Containers.
5207. Records and reports.

PRIOR PROVISIONS

A prior part I, Establishment, consisted of sections 5231 to 5233, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1984—Pub. L. 98–369, div. A, title IV, § 454(c)(14), July 18, 1984, 98 Stat. 823, struck out item 5205 ''Stamps''.

§ 5201. Regulation of operations

(a) General

Proprietors of distilled spirits plants shall conduct all operations authorized to be conducted on the premises of such plants under such regulations as the Secretary shall prescribe.

(b) Distilled spirits for industrial uses

The regulations of the Secretary under this chapter respecting the production, warehousing, denaturing, distribution, sale, export, and use of distilled spirits for industrial purposes shall be such as he deems necessary, advisable, or proper to secure the revenue, to prevent diversion to illegal uses, and to place the distilled spirits industry and other industries using such distilled spirits as a chemical raw material or for other lawful industrial purposes on the highest possible plane of scientific and commercial efficiency and development consistent with the provisions of this chapter. Where nonpotable chemical mixtures containing distilled spirits are produced for transfer to the bonded premises of a distilled spirits plant for completion of processing, the Secretary may waive any provision of this chapter with respect to the production of such mixtures, and the processing of such mixtures on the bonded premises shall be deemed to be production of distilled spirits for purposes of this chapter.

(c) Hours of operations

The Secretary may prescribe regulations relating to hours for distillery operations and to hours for removal of distilled spirits from distilled spirits plants; however, such regulations shall not be more restrictive, as to any operation or function, that the provisions of internal revenue law and regulations relating to such operation or function in effect on the day preceding the effective date of this section.

(d) Identification of distilled spirits

The Secretary may provide by regulations for the addition of tracer elements to distilled spirits to facilitate the enforcement of this chapter. Tracer elements to be added to distilled spirits at any distilled spirits plant under provisions of this subsection shall be of such character and in such quantity as the Secretary may authorize or require, and such as will not impair the quality of the distilled spirits for their intended use.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1357; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–39, title VIII, § 807(a)(21), July 26, 1979, 93 Stat. 283.)

PRIOR PROVISIONS

Provisions similar to those comprising subsecs. (a) to (c) of this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85–859, as follows:

Present subsecs.:	*Prior sections*
(a)	5193(a), 5194(g), 5241(a), 5281, 5282(a), 5302, 5305–5307, 5319(6).
(b)	5305.
(c)	5195, 5215, 5306.

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 633, 636, 640, 644, 651, 654, 657, 661.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96–39 substituted ''all operations authorized to be conducted'' for ''their operations relating to the production, storage, denaturing, rectification and bottling of distilled spirits, and all other operations authorized to be conducted''.

1976—Subsecs. (a) to (d). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

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

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.

§ 5202. Supervision of operations

All operations on the premises of a distilled spirits plant shall be conducted under such supervision and controls (including the use of Government locks and seals) as the Secretary shall by regulations prescribe.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1357; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–39, title VIII, § 806(a), July 26, 1979, 93 Stat. 279.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85–859, as follows:

Present subsecs.:	*Prior sections*
(a)	5192(a), (c), 5241(a), (b), 5282(b).
(b)	5173(b), 5192(b), (c).
(c)	5241(a), (b).
(d)	5241(b).
(e)	5331(a)(1).
(f)	5193(a), 5250(a), (b).
(g)	5243(b).

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 628, 633, 644, 646, 649, 652, 661.

AMENDMENTS

1979—Pub. L. 96–39 substituted provisions making onsite supervision and the use of government locks and seals optional at the discretion of the Secretary of the Treasury for provisions whereby bonded warehouses are required to be kept under government locks and certain activities are required to be conducted under government supervision.

1976—Subsecs. (a) to (g). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

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.

§ 5203. Entry and examination of premises

(a) Keeping premises accessible

Every proprietor of a distilled spirits plant shall furnish the Secretary such keys as may be required for internal revenue officers to gain access to the premises and any structures thereon, and such premises shall always be kept accessible to any officer having such keys.

(b) Right of entry and examination

It shall be lawful for any internal revenue officer at all times, as well by night as by day, to enter any distilled spirits plant, or any other premises where distilled spirits operations are carried on, or structure or place used in connection therewith for storage or other purposes; to make examination of the materials, equipment, and facilities thereon; and make such gauges and inventories as he deems necessary. Whenever any officer, having demanded admittance, and having declared his name and office, is not admitted into such premises by the proprietor or other person having charge thereof, it shall be lawful for such officer, at all times, as well by night as by day, to use such force as is necessary for him to gain entry to such premises.

(c) Furnishing facilities and assistance

On the demand of any internal revenue officer or agent, every proprietor of a distilled spirits plant shall furnish the necessary facilities and assistance to enable the officer or agent to gauge the spirits in any container or to examine any apparatus, equipment, containers, or materials on such premises. Such proprietor shall also, on demand of such officer or agent, open all doors, and open for examination all boxes, packages, and all casks, barrels, and other vessels on such premises.

(d) Authority to break up grounds or walls

It shall be lawful for any internal revenue officer, and any person acting in his aid, to break up the ground on any part of a distilled spirits plant or any other premises where distilled spirits operations are carried on, or any ground adjoining or near to such plant or premises, or any wall or partition thereof, or belonging thereto, or other place, to search for any pipe, cock, private conveyance, or utensil; and, upon finding any such pipe or conveyance leading therefrom or thereto, to break up any ground, house, wall, or other place through or into which such pipe or other conveyance leads, and to break or cut away such pipe or other conveyance, and turn any cock, or to examine whether such pipe or other conveyance conveys or conceals any distilled spirits, mash, wort, or beer, or other liquor, from the sight or view of the officer, so as to prevent or hinder him from taking a true account thereof.

(e) Penalty

For penalty for violation of this section, see section 5687.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1357; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–39, title VIII, § 807(a)(22), July 26, 1979, 93 Stat. 283.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85–859, as follows:

Present subsecs.:	*Prior sections*
(a)	5196(a).
(b)	5196(b), (e).
(c)	5196(c), (e), 5283, 5615.
(d)	5196(d), 5283.
(e)	5615, 5687.

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 636, 652, 686, 700.

AMENDMENTS

1979—Subsec. (b). Pub. L. 96–39, § 807(a)(22)(A), substituted ''where distilled spirits operations are carried on'' for ''where distilled spirits are produced or rectified''.

Subsec. (c). Pub. L. 96–39, § 807(a)(22)(B), substituted ''on such premises'' for ''not under the control of the internal revenue officer in charge''.

Subsec. (d). Pub. L. 96–39, § 807(a)(22)(C), substituted ''where distilled spirits operations are carried on'' for ''where distilled spirits are produced or rectified''.

1976—Subsec. (a). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

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.

§ 5204. Gauging

(a) General

The Secretary may by regulations require the gauging of distilled spirits for such purposes, as he may deem necessary, and all required gauges shall be made at such times and under such conditions as he may by regulations prescribe.

(b) Gauging instruments

For the determination of tax and the prevention and detection of frauds, the Secretary may prescribe for use such hydrometers, saccharometers, weighing and gauging instruments, or other means or methods for ascertaining the quantity, gravity, and producing capacity of any mash, wort, or beer used, or to be used, in the production of distilled spirits, and the strength and quantity of spirits subject to tax, as he may deem necessary; and he may prescribe regulations to secure a uniform and correct system of inspection, weighing, marking, and gauging of spirits.

(c) Gauging, marking, and branding by proprietors

The Secretary may by regulations require the proprietor of a distilled spirits plant, at the proprietor's expense and under such supervision as the Secretary may require, to do such gauging, marking, and branding and such mechanical labor pertaining thereto as the Secretary deems proper and determines may be done without danger to the revenue.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1358; amended Pub. L. 94–455, title XIX,

§ 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–39, title VIII, § 807(a)(23), July 26, 1979, 93 Stat. 283; Pub. L. 98–369, div. A, title IV, § 454(c)(4), July 18, 1984, 98 Stat. 821.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85–859, as follows:

Present subsecs.:	*Prior sections*
(a)	5193(a), 5194(g), 5245, 5282(b).
(b)	5212.
(c)	5193(d), 5250(b), 5282(b), 5306.

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 633, 634, 636, 639, 647, 649, 652, 657.

AMENDMENTS

1984—Subsec. (c). Pub. L. 98–369 struck out ''stamping,'' before ''marking'' in heading and text.

1979—Subsec. (a). Pub. L. 96–39 struck out '', in addition to those specified in section 5202(f),'' after ''spirits for such purposes''.

1976—Subsecs. (a) to (c). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective July 1, 1985, see section 456(b) of Pub. L. 98–369, set out as an Effective Date note under section 5101 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.

[§ 5205. Repealed. Pub. L. 98–369, div. A, title IV, § 454(a), July 18, 1984, 98 Stat. 820]

Section, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1358; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 94–569, § 1, Oct. 20, 1976, 90 Stat. 2699; Pub. L. 95–176, § 2(c), Nov. 14, 1977, 91 Stat. 1364; Pub. L. 96–39, title VIII, § 807(a)(24), July 26, 1979, 93 Stat. 283, related to stamps for containers of distilled spirits.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1985, see section 456(b) of Pub. L. 98–369, set out as an Effective Date note under section 5101 of this title.

§ 5206. Containers

(a) Authority to prescribe

The Secretary shall by regulations prescribe the types or kinds of containers which may be used to contain, store, transfer, convey, remove, or withdraw distilled spirits.

(b) Standards of fill

The Secretary may by regulations prescribe the standards of fill for approved containers.

(c) Marking, branding, or identification

Containers of distilled spirits (and cases containing bottles or other containers of such spirits) shall be marked, branded, or identified in such manner as the Secretary shall by regulations prescribe.

(d) Effacement of marks and brands on emptied containers

Every person who empties, or causes to be emptied, any container of distilled spirits bearing any mark or brand required by law (or regulations pursuant thereto) shall at the time of emptying such container efface and obliterate such mark or brand; except that the Secretary may, by regulations, waive any requirement of this subsection where he determines that no jeopardy to the revenue will be involved.

(e) Applicability

This section shall be applicable exclusively with respect to containers of distilled spirits for industrial use, with respect to containers of distilled spirits of a capacity of more than one gallon for other than industrial use, and with respect to cases containing bottles or other containers of distilled spirits.

(f) Cross references

(1) For other provisions relating to regulation of containers of distilled spirits, see section 5301.

(2) For provisions relating to labeling containers of distilled spirits of one gallon or less for nonindustrial uses, see section 105(e) of the Federal Alcohol Administration Act (27 U.S.C. 205(e)).

(3) For provisions relating to the marking and branding of containers of distilled spirits by proprietors, see section 5204(c).

(4) For penalties and forfeitures relating to marks and brands, see sections 5604 and 5613.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1360; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98–369, div. A, title IV, § 454(c)(5), July 18, 1984, 98 Stat. 821; Pub. L. 104–188, title I, § 1704(t)(13), Aug. 20, 1996, 110 Stat. 1888.)

PRIOR PROVISIONS

Provisions similar to those comprising subsecs. (a) to (c) of this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85–859, as follows:

Present subsecs.:	*Prior sections*
(a)	5193(a), (b), 5194, 5247(a), (d), 5302.
(b)	5193(c).
(c)	5009(a), 5193(a), 5194, 5243(d), (e), 5250(a), 5282(b).

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 603, 633 to 635, 646 to 649, 652, 654.

AMENDMENTS

1996—Subsec. (f)(2). Pub. L. 104–188 substituted ''section 105(e)'' for ''section 5(e)''.

1984—Subsecs. (d) to (f). Pub. L. 98–369 added subsec. (d), redesignated existing subsecs. (d) and (e) as (e) and (f), respectively, and in subsec. (f) added pars. (3) and (4).

1976—Subsecs. (a) to (c). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective July 1, 1985, see section 456(b) of Pub. L. 98–369, set out as an Effective Date note under section 5101 of this title.

§ 5207. Records and reports

(a) Records of distilled spirits plant proprietors

Every distilled spirits plant proprietor shall keep records in such form and manner as the Secretary shall by regulations prescribe of:

(1) The following production activities—

(A) the receipt of materials intended for use in the production of distilled spirits, and the use thereof,

(B) the receipt and use of distilled spirits received for redistillation, and

(C) the kind and quantity of distilled spirits produced.

(2) The following storage activities—

(A) the kind and quantity of distilled spirits, wines, and alcoholic ingredients entered into storage,

(B) the kind and quantity of distilled spirits, wines, and alcoholic ingredients removed, and the purpose for which removed, and

(C) the kind and quantity of distilled spirits returned to storage.

(3) The following denaturation activities—

(A) the kind and quantity of denaturants received and used or otherwise disposed of,

(B) the kind and quantity of distilled spirits denatured, and

(C) the kind and quantity of denatured distilled spirits removed.

(4) The following processing activities—

(A) all distilled spirits, wines, and alcoholic ingredients received or transferred,

(B) the kind and quantity of distilled spirits packaged or bottled, and

(C) the kind and quantity of distilled spirits removed from his premises.

(5) Such additional information with respect to activities described in paragraphs (1), (2), (3), and (4), and with respect to other activities, as may by regulations be required.

(b) Reports

Every person required to keep records under subsection (a) shall render such reports covering his operations, at such times and in such form and manner and containing such information, as the Secretary shall by regulations prescribe.

(c) Preservation and inspection

The records required by subsection (a) and a copy of each report required by subsection (b) shall be available for inspection by any internal revenue officer during business hours, and shall be preserved by the person required to keep such records and reports for such period as the Secretary shall by regulations prescribe.

(d) Penalty

For penalty and forfeiture for refusal or neglect to keep records required under this section, or for false entries therein, see sections 5603 and 5615(5).

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1361; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95–176, § 2(e), Nov. 14, 1977, 91 Stat. 1364; Pub. L. 96–39, title VIII, § 807(a)(25), July 26, 1979, 93 Stat. 283; Pub. L. 98–369, div. A, title IV, § 454(c)(6), July 18, 1984, 98 Stat. 821; Pub. L. 105–34, title XIV, § 1413(a), Aug. 5, 1997, 111 Stat. 1046.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85–859, as follows:

Present subsecs.:	*Prior sections:*
(a)	5197(a)(1)(A), (a)(2), 5305, 5331(a)(3).
(b)	5285, 5555(a).
(c)	5197(b), 5285, 5305, 5331(a)(3), 5555(a).
(d)	5197(a)(1)(B), 5285, 5305, 5331(a)(3), 5555(a).
(e)	5197(c)(2), 5285.

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 637, 638, 652, 657, 662, 681.

AMENDMENTS

1997—Subsec. (c). Pub. L. 105–34 struck out ''shall be kept on the premises where the operations covered by the record are carried on and'' after ''required by subsection (b)''.

1984—Subsec. (a)(4)(D). Pub. L. 98–369, § 454(c)(6), struck out subpar. (D) which required every distilled spirits plant proprietor to keep records in such form and manner as prescribed by the Secretary of the receipt, use, and balance on hand of all stamps required by law or regulations to be used by the proprietor.

1979—Subsec. (a). Pub. L. 96–39 struck out provisions relating to the bottling of distilled spirits in bond and relating to the kind and quantity of distilled spirits returned to bonded premises and inserted provisions relating to the kind and quantity of distilled spirits returned to storage and relating to receipt, use, and balance on hand of all stamps required by law or regulations to be used by the Secretary.

Subsec. (b). Pub. L. 96–39 redesignated subsec. (c) as (b) and struck out ''or (b)'' after ''subsection (a)''. Former subsec. (b), relating to records of rectifiers and bottlers, was struck out.

Subsec. (c). Pub. L. 96–39 redesignated subsec. (d) as (c), struck out ''and (b),'' after ''subsection (a)'', and substituted ''subsection (b)'' for ''subsection (c)''. Former subsec. (c) redesignated (b).

Subsecs. (d), (e). Pub. L. 96–39 redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

1977—Subsec. (a)(10), (11). Pub. L. 95–176, § 2(e)(2), (3), added par. (10) and redesignated former par. (10) as (11).

1976—Subsecs. (a) to (d). Pub. L. 94—455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1413(b) of Pub. L. 105–34 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act [Aug. 5, 1997].''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective July 1, 1985, see section 456(b) of Pub. L. 98–369, set out as an Effective Date note under section 5101 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 1977 AMENDMENT

Amendment by Pub. L. 95–176 effective on first day of first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95–176, set out as a note under section 5003 of this title.

PART II—OPERATIONS ON BONDED PREMISES

Subpart
A. General
B. Production.
C. Storage.
D. Denaturation.

PRIOR PROVISIONS

A prior part II, Operation, consisted of sections 5241 to 5252, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

SUBPART A—GENERAL

Sec.
5211. Production and entry of distilled spirits.
5212. Transfer of distilled spirits between bonded premises.
5213. Withdrawal of distilled spirits from bonded premises on determination of tax.
5214. Withdrawal of distilled spirits from bonded premises free of tax or without payment of tax.
5215. Return of tax determined distilled spirits to bonded premises.
5216. Regulation of operations.

§ 5211. Production and entry of distilled spirits

Distilled spirits in the process of production in a distilled spirits plant may be held prior to the production gauge only for so long as is reasonably necessary to complete the process of production. Under such regulations as the Secretary shall prescribe, all distilled spirits produced in a distilled spirits plant shall be gauged and a record made of such gauge within a reasonable time after the production thereof has been completed. The proprietor shall, pursuant to such production gauge and in accordance with such regulations as the Secretary shall prescribe, make appropriate entry for—

(1) deposit of such spirits on bonded premises for storage or processing;

(2) withdrawal upon determination of tax as authorized by law;

(3) withdrawal under the provisions of section 5214; and

(4) transfer for redistillation under the provisions of section 5223.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1362; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–39, title VIII, § 807(a)(26), July 26, 1979, 93 Stat. 284.)

PRIOR PROVISIONS

A prior section 5211, act Aug. 16, 1954, ch. 736, 68A Stat. 638, related to detention of casks, packages, or containers on suspicion, prior to the general revision of this chapter by Pub. L. 85–859. See section 5311 of this title.

Provisions similar to those comprising this section were contained in prior sections 5193(a), 5194(a), (e) to (g), 5242(a), 5305, act Aug. 16, 1954, ch. 736, 68A Stat. 633 to 636, 645, 657, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1979—Pars. (1), (5). Pub. L. 96–39 substituted in par. (1) ''on bonded premises for storage or processing'' for ''in storage on bonded premises'' and struck out par. (5) which related to an appropriate entry by the proprietor for immediate denaturation.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

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

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.

§ 5212. Transfer of distilled spirits between bonded premises

Bulk distilled spirits on which the internal revenue tax has not been paid or determined as authorized by law may, under such regulations as the Secretary shall prescribe, be transferred in bond between bonded premises in any approved container. For the purposes of this chapter, the removal of bulk distilled spirits for transfer in bond between bonded premises shall not be construed to be a withdrawal from bonded premises. The provisions of this section restricting transfers to bulk distilled spirits shall not apply to alcohol bottled under the provisions of section 5235 which is to be withdrawn for industrial purposes.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1362; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–39, title VIII, § 805(b)(2), July 26, 1979, 93 Stat. 276; Pub. L. 96–598, § 6(d), Dec. 24, 1980, 94 Stat. 3490.)

PRIOR PROVISIONS

A prior section 5212, act Aug. 16, 1954, ch. 736, 68A Stat. 639, related to the prevention and detection of fraud and contained a cross reference to provisions for gauging and marking of spirits, prior to the general revision of this chapter by Pub. L. 85–859. See section 5204(b) of this title.

Provisions similar to those comprising this section were contained in prior sections 5194(a), (e) to (g), 5217(a), 5246, 5308, act Aug. 16, 1954, ch. 736, 68A Stat. 634 to 636, 641, 647, 657, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1980—Pub. L. 96–598 inserted provision that restriction on transfers to bulk distilled spirits not apply to alcohol bottled under section 5235 of this title which is to be withdrawn for industrial purposes.

1979—Pub. L. 96–39 substituted ''Bulk distilled spirits'' for ''Distilled spirits'' and ''bulk distilled spirits'' for ''distilled spirits''.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

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.

§ 5213. Withdrawal of distilled spirits from bonded premises on determination of tax

Subject to the provisions of section 5173, distilled spirits may be withdrawn from the bonded premises of a distilled spirits plant on payment or determination of tax thereon, in approved containers, under such regulations as the Secretary shall prescribe.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1362; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–39, title VIII, § 807(a)(27), July 26, 1979, 93 Stat. 285.)

PRIOR PROVISIONS

A prior section 5213, act Aug. 16, 1954, ch. 736, 68A Stat. 639, related to return of materials used in the manufacture of distilled spirits, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5002(a)(6) and 5291 of this title.

Provisions similar to those comprising this section were contained in prior sections 5194(a), (e) and 5244, act Aug. 16, 1954, ch. 736, 68A Stat. 634, 647, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1979—Pub. L. 96–39 substituted ''Subject to the provisions of section 5173'' for ''On application to the Secretary and subject to the provisions of section 5174(a)''.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

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.

§ 5214. Withdrawal of distilled spirits from bonded premises free of tax or without payment of tax

(a) Purposes

Distilled spirits on which the internal revenue tax has not been paid or determined may, subject to such regulations as the Secretary shall prescribe, be withdrawn from the bonded premises of any distilled spirits plant in approved containers—

(1) free of tax after denaturation of such spirits in the manner prescribed by law for—

(A) exportation;

(B) use in the manufacture of ether, chloroform, or other definite chemical substance where such distilled spirits are changed into some other chemical substance and do not appear in the finished product; or

(C) any other use in the arts and industries (except for uses prohibited by section 5273(b) or (d)) and for fuel, light, and power; or

(2) free of tax by, and for the use of, the United States or any governmental agency thereof, any State, any political subdivision of a State, or the District of Columbia, for nonbeverage purposes; or

(3) free of tax for nonbeverage purposes and not for resale or use in the manufacture of any product for sale—

(A) for the use of any educational organization described in section 170(b)(1)(A)(ii) which is exempt from income tax under section 501(a), or for the use of any scientific university or college of learning;

(B) for any laboratory for use exclusively in scientific research;

(C) for use at any hospital, blood bank, or sanitarium), (including use in making any analysis or test at such hospital, blood bank, or sanitarium), or at any pathological laboratory exclusively engaged in making analyses, or tests, for hospitals or sanitariums; or

(D) for the use of any clinic operated for charity and not for profit (including use in the compounding of bona fide medicines for treatment outside of such clinics of patients thereof); or

(4) without payment of tax for exportation, after making such application and entries, filing such bonds as are required by section 5175, and complying with such other requirements as may by regulations be prescribed; or

(5) without payment of tax for use in wine production, as authorized by section 5373; or

(6) without payment of tax for transfer to manufacturing bonded warehouses for manufacturing in such warehouses for export, as authorized by law; or

(7) without payment of tax for use of certain vessels and aircraft, as authorized by law; or

(8) without payment of tax for transfer to foreign-trade zones, as authorized by law; or

(9) without payment of tax, for transfer (for the purpose of storage pending exportation) to any customs bonded warehouse from which distilled spirits may be exported, and distilled spirits transferred to a customs bonded warehouse under this paragraph shall be entered, stored, and accounted for under such regulations and bonds as the Secretary may prescribe; or

(10) without payment of tax by a proprietor of bonded premises for use in research, development, or testing (other than consumer testing or other market analysis) of processes, systems, materials, or equipment, relating to distilled spirits or distilled spirits operations, under such limitations and conditions as to quantities, use, and accountability as the Secretary may by regulations require for the protection of the revenue; or

(11) free of tax when contained in an article (within the meaning of section 5002(a)(14)); or

(12) free of tax in the case of distilled spirits produced under section 5181; or

(13) without payment of tax for use on bonded wine cellar premises in the production of wine or wine products which will be rendered unfit for beverage use and removed pursuant to section 5362(d).

(b) Cross references

(1) For provisions relating to denaturation, see sections 5241 and 5242.

(2) For provisions requiring permit for users of distilled spirits withdrawn free of tax and for users of specially denatured distilled spirits, see section 5271.

(3) For provisions relating to withdrawal of distilled spirits without payment of tax for use of certain vessels and aircraft, as authorized by law, see 19 U.S.C. 1309.

(4) For provisions relating to withdrawal of distilled spirits without payment of tax for manufacture in manufacturing bonded warehouse, see 19 U.S.C. 1311.

(5) For provisions relating to foreign-trade zones, see 19 U.S.C. 81c.

(6) For provisions authorizing regulations for withdrawal of distilled spirits free of tax for use of the United States, see section 7510.

(7) For provisions authorizing removal of distillates to bonded wine cellars for use in the production of distilling material, see section 5373(c).

(8) For provisions relating to distilled spirits for use of foreign embassies, legations, etc., see section 5066.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1362; amended Pub. L. 91–172, title I, § 101(j)(29), Dec. 30, 1969, 83 Stat. 529; Pub. L. 94–455, title XIX, §§ 1905(c)(2), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1823, 1834; Pub. L. 95–176, §§ 3(a), (d), 4(a), Nov. 14, 1977, 91 Stat. 1365; Pub. L. 96–39, title VIII, § 807(a)(28), July 26, 1979, 93 Stat. 285; Pub. L. 96–223, title II, § 232(e)(2)(B), Apr. 2, 1980, 94 Stat. 280; Pub. L. 98–369, div. A, title IV, § 455(a), July 18, 1984, 98 Stat. 823.)

PRIOR PROVISIONS

A prior section 5214, act Aug. 16, 1954, ch. 736, 68A Stat. 639, related to regulation of traffic in containers of distilled spirits, prior to the general revision of this chapter by Pub. L. 85–859. See section 5301(a), (c), (d) of this title.

Provisions similar to those comprising subsecs. (a)(1) to (4), (9) and (b)(3) to (5) of this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85–859, as follows:

Present subsecs.:	*Prior sections*
(a)	5243(e), 5247, 5310(a)–(c), 5331 (a)(1), (b), 5373(b)(4), 5522(a).
(a)(1)	5310(a), 5331(a)(1), (b).
(a)(2), (3)	5310(b), (c).
(a)(4)	5243(e), 5247.
(a)(9)	5373(b)(4).
(b)(3)	5248(2).
(b)(4)	5248(4).
(b)(5)	5248(3).

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 646–648, 658, 661, 662, 667.

AMENDMENTS

1984—Subsec. (a)(13). Pub. L. 98–369 added par. (13).

1980—Subsec. (a)(12). Pub. L. 96–223 added par. (12).

1979—Subsec. (a)(6). Pub. L. 96–39, § 807(a)(28)(A), inserted ''for manufacturing in such warehouses for export'' after ''bonded warehouses'' and substituted ''by law'' for ''by section 5522(a)''.

Subsec. (a)(9). Pub. L. 96–39, § 807(a)(28)(B), struck out ''in the case of distilled spirits bottled in bond for export under section 5233 or distilled spirits returned to bonded premises under section 5215(b),'' after ''payment of tax,''.

Subsec. (a)(10). Pub. L. 96–39, § 807(a)(28)(C), (D), substituted ''distilled spirits operations'' for ''distillery operations''.

Subsec. (a)(11). Pub. L. 96–39, § 807(a)(28)(D), added par. (11).

Subsec. (b)(4) to (8). Pub. L. 96–39, § 807(a)(28)(E), added par. (4) and redesignated former pars. (4) to (7) as (5) to (8), respectively.

1977—Subsec. (a)(9). Pub. L. 95–176, § 3(a), substituted provisions for withdrawal of distilled spirits from bonded premises without payment of tax where the distilled spirits are bottled in bond for export or are returned to bonded premises for transfer (for the purpose of storage pending exportation) to any customs bonded warehouse for exportation and requiring the transferred distilled spirits to be entered, stored, and accounted for, for prior provision for tax free withdrawals for use as samples in making tests or laboratory analyses.

Subsec. (a)(10). Pub. L. 95–176, § 4(a), added par. (10).

Subsec. (b)(7). Pub. L. 95–176, § 3(d), added par. (7).

1976—Subsec. (a). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' in introductory provisions and struck out ''or Territory'' after ''State'' in par. (2).

1969—Subsec. (a)(3)(A). Pub. L. 91–172 substituted ''section 170(b)(1)(A)(ii)'' for ''section 503(b)(2)''.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective July 18, 1984, see section 456(c) of Pub. L. 98–369, set out as an Effective Date note under section 5101 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–223 effective on first day of first calendar month beginning more than 60 days after Apr. 2, 1980, see section 232(h)(3) of Pub. L. 96–223, set out as an Effective Date note under section 5181 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 1977 AMENDMENT

Amendment by Pub. L. 95–176 effective on first day of first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95–176, set out as a note under section 5003 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(c)(2) 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 OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91–172, set out as an Effective Date note under section 4940 of this title.

§ 5215. Return of tax determined distilled spirits to bonded premises

(a) General rule

Under such regulations as the Secretary may prescribe, distilled spirits on which tax has been determined or paid may be returned to the bonded premises of a distilled spirits plant but only for destruction, denaturation, redistillation, reconditioning, or rebottling.

(b) Applicability of chapter to distilled spirits returned to a distilled spirits plant

All provisions of this chapter applicable to distilled spirits in bond shall be applicable to distilled spirits returned to bonded premises under the provisions of this section on such return.

(c) Return of bottled distilled spirits for relabeling and reclosing

Under such regulations as the Secretary shall prescribe, bottled distilled spirits withdrawn from bonded premises may be returned to bonded premises for relabeling or reclosing, and the tax under section 5001 shall not again be collected on such spirits.

(d) Cross reference

For provisions relating to the abatement, credit, or refund of tax on distilled spirits returned to a distilled spirits plant under this section, see section 5008(c).

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1364; amended Pub. L. 89–44, title VIII, § 805(c), June 21, 1965, 79 Stat. 161; Pub. L. 91–659, § 2(c), Jan. 8, 1971, 84 Stat. 1964; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95–176, § 2(a), Nov. 14, 1977, 91 Stat. 1363; Pub. L. 96–39, title VIII, § 807(a)(29), July 26, 1979, 93 Stat. 285; Pub. L. 98–369, div. A, title IV, § 454(c)(7), July 18, 1984, 98 Stat. 821.)

PRIOR PROVISIONS

A prior section 5215, act Aug. 16, 1954, ch. 736, 68A Stat. 640, related to exemption of distillers of fruit brandy from certain requirements, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5201(c), 5312(a), (c), 5373(a) and 5562 of this title.

AMENDMENTS

1984—Subsec. (c). Pub. L. 98–369 substituted ''reclosing'' for ''restamping'' in heading and text.

1979—Pub. L. 96–39 amended section generally thereby authorizing the return of distilled spirits to the bonded premises of the distilled spirits plant for certain enumerated purposes except mere storage.

1977—Subsec. (a). Pub. L. 95–176 reenacted existing provisions but struck out last sentence relating to applicability of chapter to distilled spirits returned to bonded premises, which was covered in subsec. (d).

Subsecs. (b), (c). Pub. L. 95–176 added subsecs. (b) and (c) and redesignated former subsec. (b) as (e).

Subsec. (d). Pub. L. 95–176 redesignated last sentence of former subsec. (a) as subsec. (d) and inserted introductory phrase ''Except as otherwise provided in this section,''.

Subsec. (e). Pub. L. 95–176 redesignated former subsec. (b) as par. (1) and added par. (2).

1976—Subsec. (a). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

1971—Subsec. (a). Pub. L. 91–659, § 2(c)(1), struck out requirements that withdrawn distilled spirits be returned when found unsuitable, in bulk containers, before processing and before removal from the original container and permitted return of withdrawn distilled spirits other than products to which any alcoholic ingredients other than such distilled spirits have been added and made additional authorization under section 5234(a)(1)(B) for mingling returned distilled spirits.

Subsec. (b). Pub. L. 91–659, § 2(c)(2), (3), repealed subsec. (b) which provided for definition of ''original container in which such distilled spirits were withdrawn from bonded premises'' in the case of distilled spirits withdrawn by pipeline. Former subsec. (c) redesignated (b).

1965—Subsec. (a). Pub. L. 89–44 inserted reference to destruction to redistillation, denaturation, and mingling in second sentence on list of options which might be used in disposing of returned distilled spirits.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective July 1, 1985, see section 456(b) of Pub. L. 98–369, set out as an Effective Date note under section 5101 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 1977 AMENDMENT

Amendment by Pub. L. 95–176 effective on first day of first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95–176, set out as a note under section 5003 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91–659 effective on first day of first calendar month which begins more than 90 days after January 8, 1971, see section 6 of Pub. L. 91–659, set out as an Effective Date note under section 5066 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–44 effective July 1, 1965, see section 805(g)(1) of Pub. L. 89–44, set out as a note under section 5008 of this title.

DISTILLED SPIRITS TO WHICH ALCOHOLIC INGREDIENTS OTHER THAN DISTILLED SPIRITS HAVE BEEN ADDED AND WHICH HAVE BEEN WITHDRAWN FROM DISTILLED SPIRITS PLANTS BEFORE JANUARY 1, 1980

Subsec. (a) of this section to apply 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 Jan. 1, 1980, only if such spirits are returned to the distilled spirits plant from which withdrawn, see section 808(e) of Pub. L. 96–39, set out as a note under section 5061 of this title.

§ 5216. Regulation of operations

For general provisions relating to operations on bonded premises see part I of this subchapter.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1364.)

PRIOR PROVISIONS

A prior section 5216, act Aug. 16, 1954, ch. 736, 68A Stat. 640, related to ''mash, wort and vinegar; vinegar factories'', prior to the general revision of this chapter by Pub. L. 85–859. See sections 5178(c)(4), 5222(a)(1), (2)(D), (d), 5501, 5502(a), 5503, 5504(a), (b), 5505(a), (c) and 5601(a)(7), (8), (9)(A) of this title.

A prior section 5217, acts Aug. 16, 1954, ch. 736, 68A Stat. 641; July 11, 1956, ch. 573, § 1, 70 Stat. 530; July 11, 1958, Pub. L. 85–517, 72 Stat. 357, related to national emergency transfers, prior to the general revision of this chapter by Pub. L. 85–859.

SUBPART B—PRODUCTION

Sec.
5221. Commencement, suspension, and resumption of operations.
5222. Production, receipt, removal, and use of distilling materials.
5223. Redistillation of spirits, articles, and residues.

AMENDMENTS

1965—Pub. L. 89–44, title VIII, § 805(f)(9), June 21, 1965, 79 Stat. 161, inserted reference to articles and residues in item 5223.

§ 5221. Commencement, suspension, and resumption of operations

(a) Commencement, suspension, and resumption

The proprietor of a distilled spirits plant authorized to produce distilled spirits shall not commence production operations until written notice has been given to the Secretary stating when operations will begin. Any proprietor of a distilled spirits plant desiring to suspend production of distilled spirits shall give notice in writing to the Secretary, stating when he will suspend such operations. Pursuant to such notice, an internal revenue officer shall take such action as the Secretary shall prescribe to prevent the production of distilled spirits. No proprietor, after having given such notice, shall, after the time stated therein, produce distilled spirits on such premises until he again gives notice in writing to the Secretary stating the time when he will resume operations. At the time stated in the notice of resuming such operations an internal revenue officer shall take such action as is necessary to permit operations to be resumed. The notices submitted under this section shall be in such form and submitted in such manner as the Secretary may by regulations require. Nothing in this section shall apply to suspensions caused by unavoidable accidents; and the Secretary shall prescribe regulations to govern such cases of involuntary suspension.

(b) Penalty

For penalty and forfeiture for carrying on the business of distiller after having given notice of suspension, see sections 5601(a)(14) and 5615(3).

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1364; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–39, title VIII, § 806(b), July 26, 1979, 93 Stat. 279.)

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (a) of this section were contained in prior section 5191(a), act Aug. 16, 1954, ch. 736, 68A Stat. 632, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96–39 substituted ''until written notice has been given to the Secretary stating when operations will begin'' for ''until an internal revenue officer has been assigned to the premises''.

1976—Subsec. (a). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

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

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.

§ 5222. Production, receipt, removal, and use of distilling materials

(a) Production, removal, and use

(1) No mash, wort, or wash fit for distillation or for the production of distilled spirits shall be made or fermented in any building or on any premises other than on the bonded premises of a distilled spirits plant duly authorized to produce distilled spirits according to law; and no mash, wort, or wash so made or fermented shall be removed from any such premises before being distilled, except as authorized by the Secretary; and no person other than an authorized distiller shall, by distillation or any other process, produce distilled spirits from any mash, wort, wash, or other material.

(2) Nothing in this subsection shall be construed to apply to—

(A) authorized operations performed on the premises of vinegar plants established under part I of subchapter H;

(B) authorized production and removal of fermented materials produced on authorized brewery or bonded wine cellar premises as provided by law;

(C) products exempt from tax under the provisions of section 5042 or 5053(e); or

(D) fermented materials used in the manufacture of vinegar by fermentation.

(b) Receipt

Under such regulations as the Secretary may prescribe, fermented materials to be used in the production of distilled spirits may be received on the bonded premises of a distilled spirits plant authorized to produce distilled spirits as follows—

(1) from the premises of a bonded wine cellar authorized to remove such material by section 5362(c)(6);

(2) beer conveyed without payment of tax from brewery premises, beer which has been lawfully removed from brewery premises upon determination of tax, or

(3) cider exempt from tax under the provisions of section 5042(a)(1).

(c) Processing of distilled spirits containing extraneous substances

The Secretary may by regulations provide for the removal from the distilling system, and the addition to the fermented or unfermented distilling material, of distilled spirits containing substantial quantities of fusel oil or aldehydes, or other extraneous substances.

(d) Penalty

For penalty and forfeiture for unlawful production, removal, or use of material fit for distillation or for the production of distilled spirits, and for penalty and forfeiture for unlawful production of distilled spirits, see sections 5601(a)(7), 5601(a)(8), and 5615(4).

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1365; amended Pub. L. 94–455, title XIX, §§ 1905(b)(6)(D), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1823, 1834; Pub. L. 95–458, § 2(b)(4), Oct. 14, 1978, 92 Stat. 1256; Pub. L. 96–39, title VIII, § 807(a)(30), July 26, 1979, 93 Stat. 286; Pub. L. 105–34, title XIV, § 1414(a), Aug. 5, 1997, 111 Stat. 1047.)

PRIOR PROVISIONS

Provisions similar to those comprising subsecs. (a)(1), (2)(D), (b), and (d) of this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85–859, as follows:

Present subsecs.:	*Prior sections*
(a)(1), (2)(D)	5216(a)(1), (4).
(b)	5309, 5362(7), 5412.
(d)	5216(b).

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 640, 641, 658, 665, 675.

AMENDMENTS

1997—Subsec. (b)(2). Pub. L. 105–34 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''conveyed without payment of tax from contiguous brewery premises where produced; or''.

1979—Subsec. (c). Pub. L. 96–39 struck out '', in the production facilities of a distilled spirits plant'' after ''distilling material''.

1978—Subsec. (a)(2)(C). Pub. L. 95–458 inserted reference to section 5053(e).

1976—Subsecs. (a)(1), (b), (c). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (d). Pub. L. 94–455, § 1905(b)(6)(D), struck out ''5601(b)(3), 5601(b)(4),'' after ''5601(a)(8),''.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 effective on the 1st day of the 1st calendar quarter that begins at least 180 days after Aug. 5, 1997, see section 1414(d) of Pub. L. 105–34, set out as a note under section 5053 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 1978 AMENDMENT

Amendment by Pub. L. 95–458 effective on first day of first calendar month beginning more than 90 days after Oct. 14, 1978, see section 2(c) of Pub. L. 95–458, set out as a note under section 5042 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(b)(6)(D) 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.

§ 5223. Redistillation of spirits, articles, and residues

(a) Spirits on bonded premises

The proprietor of a distilled spirits plant authorized to produce distilled spirits may, under such regulations as the Secretary shall pre-

scribe, redistill any distilled spirits which have not been withdrawn from bonded premises.

(b) Distilled spirits returned for redistillation

Distilled spirits which have been lawfully removed from bonded premises free of tax or without payment of tax may, under such regulations as the Secretary may prescribe, be returned for redistillation to the bonded premises of a distilled spirits plant authorized to produce distilled spirits.

(c) Redistillation of articles and residues

Articles, containing denatured distilled spirits, which were manufactured under the provisions of subchapter D or on the bonded premises of a distilled spirits plant, and the spirits residues of manufacturing processes related thereto, may be received, and the distilled spirits therein recovered by redistillation, on the bonded premises of a distilled spirits plant authorized to produce distilled spirits, under such regulations as the Secretary may prescribe.

(d) Denatured distilled spirits, articles, and residues

Distilled spirits recovered by the redistillation of denatured distilled spirits, or by the redistillation of the articles or residues described in subsection (c), may not be withdrawn from bonded premises except for industrial use or after denaturation thereof in the manner prescribed by law.

(e) Products of redistillation

All distilled spirits redistilled on bonded premises subsequent to production gauge shall be treated the same as if such spirits had been originally produced by the redistiller and all provisions of this chapter applicable to the original production of distilled spirits shall be applicable thereto. Any prior obligation as to taxes, liens, and bonds with respect to such distilled spirits shall be extinguished on redistillation. Nothing in this subsection shall be construed as affecting any provision of law relating to the labeling of distilled spirits or as limiting the authority of the Secretary to regulate the marking, branding, or identification of distilled spirits redistilled under this section.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1365; amended Pub. L. 89–44, title VIII, § 805(d), (f)(8), (10), June 21, 1965, 79 Stat. 161, 162; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–39, title VIII, § 807(a)(31), July 26, 1979, 93 Stat. 286.)

PRIOR PROVISIONS

Provisions similar to those comprising subsecs. (a) and (d) of this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85–859, as follows:

Present subsecs.:	*Prior sections*
(a)	5194(f), 5217(a), 5305, 5308.
(d)	5194(f).

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 635, 641, 657.

AMENDMENTS

1979—Subsec. (c). Pub. L. 96–39, § 807(a)(31)(A), inserted ''or on the bonded premises of a distilled spirits plant'' after ''subchapter D,''.

Subsec. (e). Pub. L. 96–39, § 807(a)(31)(B), struck out provisions relating to the treatment of the processing of distilled spirits, subsequent to production gauge, in the manufacture of vodka in the production facilities of a distilled spirits plant as a redistillation of the spirits for purposes of this subsection, subsection (a), and sections 5025(d) and 5215.

1976—Subsecs. (a) to (c), (e). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1965—Pub. L. 89–44, § 805(f)(8), substituted ''spirits, articles, and residues'' for ''spirits'' in section catchline.

Subsec. (c). Pub. L. 89–44, § 805(d), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 89–44, § 805(d), (f)(10), redesignated subsec. (c) as (d), inserted '', articles, and residues'' after ''distilled spirits'' in heading, and inserted '', or by the redistillation of the articles or residues described in subsection (c),'' after ''denatured distilled spirits'' in text. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 89–11, § 805(d), redesignated former subsec. (d) as (e).

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 1965 AMENDMENT

Amendment by Pub. L. 89–44 effective Oct. 1, 1965, see section 805(g)(2) of Pub. L. 89–44, set out as a note under section 5004 of this title.

SUBPART C—STORAGE

Sec.
5231. Entry for deposit.
5232. Imported distilled spirits.
[5233, 5234. Repealed.]
5235. Bottling of alcohol for industrial purposes.
5236. Discontinuance of storage facilities and transfer of distilled spirits.

AMENDMENTS

1979—Pub. L. 96–39, title VIII, § 807(b)(6), July 26, 1979, 93 Stat. 290, substituted ''Entry for deposit'' for ''Entry for deposit in storage'' in item 5231 and struck out items 5233 ''Bottling of distilled spirits in bond'' and 5234 ''Mingling and blending of distilled spirits''.

§ 5231. Entry for deposit

All distilled spirits entered for deposit on the bonded premises of a distilled spirits plant under section 5211 shall, under such regulations as the Secretary shall prescribe, be deposited in the facilities on the bonded premises designated in the entry for deposit.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1366; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–39, title VIII, § 807(a)(32), July 26, 1979, 93 Stat. 286.)

PRIOR PROVISIONS

A prior section 5231, act Aug. 16, 1954, ch. 736, 68A Stat. 643, related to authority to establish internal revenue bonded warehouses, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5171(a), 5172, 5173(a), and 5178(a)(1)(A)(B), (3)(A)(B) of this title.

Provisions similar to those comprising this section were contained in prior section 5242(a), (b)(5), act Aug. 16, 1954, ch. 736, 68A Stat. 645, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1979—Pub. L. 96–39 struck out in section catchline ''in storage'' after ''for deposit'' and subsec. (a) catchline

and in text substituted ''on the bonded premises of a distilled spirits plant'' for ''in storage'' and ''in the facilities'' for ''in storage facilities'' and repealed subsec. (b) which related to a cross reference to section 5006(a)(2) for provisions requiring that all distilled spirits entered for deposit be withdrawn within 20 years from date of original entry for deposit.

1976—Subsec. (a). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

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

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.

§ 5232. Imported distilled spirits

(a) Transfer to distilled spirits plant without payment of tax

Distilled spirits imported or brought into the United States in bulk containers may, under such regulations as the Secretary shall prescribe, be withdrawn from customs custody and transferred in such bulk containers or by pipeline to the bonded premises of a distilled spirits plant without payment of the internal revenue tax imposed on such distilled spirits. The person operating the bonded premises of the distilled spirits plant to which such spirits are transferred shall become liable for the tax on distilled spirits withdrawn from customs custody under this section upon release of the spirits from customs custody, and the importer, or the person bringing such distilled spirits into the United States, shall thereupon be relieved of his liability for such tax.

(b) Withdrawals, etc.

Distilled spirits transferred pursuant to subsection (a)—

(1) may be redistilled or denatured only if of 185 degrees or more of proof, and

(2) may be withdrawn for any purpose authorized by this chapter, in the same manner as domestic distilled spirits.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1366; amended Pub. L. 90–630, § 3(a), Oct. 22, 1968, 82 Stat. 1328; Pub. L. 91–659, § 7, Jan. 8, 1971, 84 Stat. 1967; Pub. L. 94–455, title XIX, § 1905(a)(15), Oct. 4, 1976, 90 Stat. 1820; Pub. L. 96–39, title VIII, § 807(a)(33), July 26, 1979, 93 Stat. 286.)

PRIOR PROVISIONS

A prior section 5232, acts Aug. 16, 1954, ch. 736, 68A Stat. 643; Sept. 2, 1958, Pub. L. 85–859, title II, § 206(b), 72 Stat. 1431, related to bond requirements of internal revenue bonded warehouses, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5005(c)(1), 5006(a)(2), 5173(a), (c)(1), 5174(a)(1), 5176(a), (b), and 5177(b)(1) of this title.

Provisions similar to those comprising this section were contained in prior section 5311, act Aug. 16, 1954, ch. 736, 68A Stat. 658, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1979—Subsec. (b). Pub. L. 96–39 redesignated par. (2) and (3) as (1) and (2). Former par. (1), which prohibited distilled spirits transferred pursuant to subsection (a) from being bottled in bond under section 5233, was struck out.

1976—Subsec. (a). Pub. L. 94–455 inserted '', or the person bringing such distilled spirits into the United States,'' after ''and the importer''.

1971—Subsec. (a). Pub. L. 91–659, § 7(a), extended privilege of transfer of distilled spirits to the plant without payment of tax to distilled spirits imported, or brought into the United States, and struck out reference to section 5001.

Subsec. (b). Pub. L. 91–659, § 7(b), struck out ''Imported'' before ''distilled spirits'' and thus applied subsection to all distilled spirits.

1968—Pub. L. 90–630 permitted withdrawal in bulk containers or by pipeline from customs custody to internal revenue bond without payment of internal revenue taxes of all imported distilled spirits in bulk containers, regardless of proof, extended to all such imported distilled spirits the withdrawal privileges already available to imported distilled spirits of at least 185 proof, whether or not they have been redistilled or denatured, provided that transferor's liability for the internal revenue tax ceases when the transferee's liability attaches, and established that imported bulk spirits are not eligible for the bottled in bond privileges available to domestic spirits.

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 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 OF 1971 AMENDMENT

Amendment by Pub. L. 91–659 effective on first day of first calendar month which begins more than 90 days after Jan. 8, 1971, see section 6 of Pub. L. 91–659, set out as an Effective Date note under section 5066 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–630 applicable only to withdrawals from customs custody on or after first day of first calendar month which begins more than 90 days after Oct. 22, 1968, see section 4 of Pub. L. 90–630, set out as a note under section 5008 of this title.

[§ 5233. Repealed. Pub. L. 96–39, title VIII, § 807(a)(34), July 26, 1979, 93 Stat. 286]

Section, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1366; amended Pub. L. 94–455, title XIX, §§ 1905(a)(16), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1820, 1834, related to the bottling of distilled spirits in bond.

A prior section 5233, act Aug. 16, 1954, ch. 736, 68A Stat. 644, made a cross reference provision to establishment of bottling in bond department, prior to the general revision of this chapter by Pub. L. 85–859.

Provisions similar to those comprising subsecs. (a) to (d) and (e)(1) of section 5233 added by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1366, were contained in prior section 5243(a) to (c), (g), act Aug. 16, 1954, ch. 736, 68A Stat. 645, as amended by Pub. L. 85–859, title II, § 206(c), Sept. 2, 1958, 72 Stat. 1431.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1980, see section 810 of Pub. L. 96–39, set out as an Effective Date of 1979 Amendment note under section 5001 of this title.

[§ 5234. Repealed. Pub. L. 96–39, title VIII, § 807(a)(35), July 26, 1979, 93 Stat. 286]

Section, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1367; amended Pub. L. 89–44, title VIII,

§ 805(f)(11), June 21, 1965, 79 Stat. 162; Pub. L. 94–455, title XIX, §§ 1905(a)(17), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1820, 1834; Pub. L. 95–176, § 5(a), Nov. 14, 1977, 91 Stat. 1366, related to the mingling and blending of distilled spirits.

Provisions similar to those comprising section 5234(a)(1)(A) and (b) to (d) of this title were contained in prior sections of act Aug. 16, 1954, ch. 736, prior to the general revision of this chapter by Pub. L. 85–859, as follows:

Subsecs.:	*Prior sections*
(a)(1)(A)	5306.
(b)	5217(a).
(c)	5023.
(d)	5251.

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 606, 641, 649, 657.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1980, see section 810 of Pub. L. 96–39, set out as an Effective Date of 1979 Amendment note under section 5001 of this title.

§ 5235. Bottling of alcohol for industrial purposes

Alcohol for industrial purposes may be bottled, labeled, and cased on bonded premises of a distilled spirits plant prior to payment or determination of tax, under such regulations as the Secretary may prescribe.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1369; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–39, title VIII, § 807(a)(36), July 26, 1979, 93 Stat. 286; Pub. L. 98–369, div. A, title IV, § 454(c)(8), July 18, 1984, 98 Stat. 821.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior section 5305, act Aug. 16, 1954, ch. 736, 68A Stat. 657, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1984—Pub. L. 98–369 struck out ''stamped,'' before ''labeled,'' and struck out provision that section 5205(a)(1) shall not apply to alcohol bottled, stamped, and labeled as such under this section.

1979—Pub. L. 96–39 substituted ''section 5205(a)(1) shall not apply'' for ''sections 5178(a)(4)(A), 5205(a)(1), and 5233 (relating to the bottling of distilled spirits in bond) shall not be applicable''.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective July 1, 1985, see section 456(b) of Pub. L. 98–369, set out as an Effective Date note under section 5101 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.

§ 5236. Discontinuance of storage facilities and transfer of distilled spirits

When the Secretary finds any facilities for the storage of distilled spirits on bonded premises to be unsafe or unfit for use, or the spirits contained therein subject to great loss or wastage he may require the discontinuance of the use of such facilities and require the spirits contained therein to be transferred to such other storage facilities as he may designate. Such transfer shall be made at such time and under such supervision as the Secretary may require and the expense of the transfer shall be paid by the owner or the warehouseman of the distilled spirits. Whenever the owner of such distilled spirits or the warehouseman fails to make such transfer within the time prescribed, or to pay the just and proper expense of such transfer, as ascertained and determined by the Secretary, such distilled spirits may be seized and sold by the Secretary in the same manner as goods are sold on distraint for taxes, and the proceeds of such sale shall be applied to the payment of the taxes due thereon and the cost and expenses of such sale and removal, and the balance paid over to the owner of such distilled spirits.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1369; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior section 5252, act Aug. 16, 1954, ch. 736, 68A Stat. 649, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

SUBPART D—DENATURATION

Sec.
5241. Authority to denature.
5242. Denaturing materials.
5243. Sale of abandoned spirits for denaturation without collection of tax.
5244. Cross references.

§ 5241. Authority to denature

Under such regulations as the Secretary shall prescribe, distilled spirits may be denatured on the bonded premises of a distilled spirits plant qualified for the processing of distilled spirits. Distilled spirits to be denatured under this section shall be of such kind and such degree of proof as the Secretary shall by regulations prescribe. Distilled spirits denatured under this section may be used on the bonded premises of a distilled spirits plant in the manufacture of any article.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1369; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–39, title VIII, § 807(a)(37), July 26, 1979, 93 Stat. 286.)

PRIOR PROVISIONS

A prior section 5241, act Aug. 16, 1954, ch. 736, 68A Stat. 644, related to supervision of operations of internal revenue bonded warehouses, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5201(a), 5202 (a), (c), (d), and 7803 of this title and section 22 of former Title 5, Executive Departments and Government Officers and Employees.

Provisions similar to those comprising this section were contained in prior sections 5194(c), 5303, 5310(a), 5331(a)(1), act Aug. 16, 1954, ch. 736, 68A Stat. 635, 655, 658, 661, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1979—Pub. L. 96–39 substituted ''a distilled spirits plant qualified for the processing of distilled spirits''

for ''any distilled spirits plant operated by a proprietor who is authorized to produce distilled spirits at such plant or on other bonded premises'', struck out provision that any other person operating bonded premises may, at the discretion of the Secretary and under such regulations as he may prescribe, be authorized to denature distilled spirits on such bonded premises, and inserted provision that distilled spirits denatured under this section may be used on the bonded premises of a distilled spirits plant in the manufacture of any article.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

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

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.

§ 5242. Denaturing materials

Methanol or other denaturing materials suitable to the use for which the denatured distilled spirits are intended to be withdrawn shall be used for the denaturation of distilled spirits. Denaturing materials shall be such as to render the spirits with which they are admixed unfit for beverage or internal human medicinal use. The character and the quantity of denaturing materials used shall be as prescribed by the Secretary by regulations.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1369; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5242, acts Aug. 16, 1954, ch. 736, 68A Stat. 645; Sept. 2, 1958, Pub. L. 85–859, title II, § 206(e), 72 Stat. 1431, related to deposit of spirits in warehouses, prior to the general revision of this chapter by Pub. L. 85–859.

Provisions similar to those comprising this section were contained in prior sections 5303, 5310(a) and 5331(a)(1), (2), act Aug. 16, 1954, ch. 736, 68A Stat. 655, 658, 661, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

§ 5243. Sale of abandoned spirits for denaturation without collection of tax

Notwithstanding any other provision of law, any distilled spirits abandoned to the United States may be sold, in such cases as the Secretary may by regulation provide, to the proprietor of any distilled spirits plant for denaturation, or redistillation and denaturation, without the payment of the internal revenue tax thereon.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1370; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5243, acts Aug. 16, 1954, ch. 736, 68A Stat. 645; Sept. 2, 1958, Pub. L. 85–859, § 206(c), 72 Stat. 1431, related to bottling of distilled spirits in bond, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5171, 5172, 5175, 5178(a)(3)(C), (4)(A), 5202(g), 5206(c), 5214(a)(4), and 5233(a) to (c), (e)(1) of this title and section 121 of Title 27, Intoxicating Liquors.

Provisions similar to those comprising this section were contained in prior section 5333, act Aug. 16, 1954, ch. 736, 68A Stat. 662, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

§ 5244. Cross references

(1) For provisions authorizing the withdrawal from the bonded premises of a distilled spirits plant of denatured distilled spirits, see section 5214(a)(1).

(2) For provisions requiring a permit to procure specially denatured distilled spirits, see section 5271.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1370.)

PRIOR PROVISIONS

A prior section 5244, act Aug. 16, 1954, ch. 736, 68A Stat. 647, related to withdrawal of spirits from bonded warehouse on determination of tax, prior to the general revision of this chapter by Pub. L. 85–859. See section 5213 of this title.

[PART III—REPEALED]

[§§ 5251, 5252. Repealed. Pub. L. 96–39, title VIII, § 807(a)(38), July 26, 1979, 93 Stat. 286]

Section 5251, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1370; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, required proprietors of distilled spirits plants to give notice of their intention to rectify or compound any distilled spirits or wines.

A prior section 5251, act Aug. 16, 1954, ch. 736, 68A Stat. 649, made a cross reference provision to ''blending of beverage brandies in internal revenue bonded warehouses'', prior to the general revision of this chapter by Pub. L. 85–859.

Provisions similar to those comprising section 5251 of this title were contained in prior section 5282(a), act Aug. 16, 1954, ch. 736, 68A Stat. 651, prior to the general revision of this chapter by Pub. L. 85–859.

Section 5252, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1370, set out cross references to other sections with regard to the regulation of operations.

A prior section 5252, act Aug. 16, 1954, ch. 736, 68A Stat. 649, related to ''discontinuance of warehouse and transfer of merchandise'', prior to the general revision of this chapter by Pub. L. 85–859. See section 5236 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1980, see section 810 of Pub. L. 96–39, set out as an Effective Date of 1979 Amendment note under section 5001 of this title.

Subchapter D—Industrial Use of Distilled Spirits

Sec.
5271. Permits.
5272. Bonds.
5273. Sale, use, and recovery of denatured distilled spirits.
5274. Applicability of other laws.
5275. Records and reports.
5276. Occupational tax.[1]

[1] Section repealed by Pub. L. 109–59 without corresponding amendment of subchapter analysis.

PRIOR PROVISIONS

A prior subchapter D, Rectifying Plants, consisted of part I, Establishment, and part II, Operation, and comprised sections 5271 to 5275 and 5281 to 5285, respectively, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1987—Pub. L. 100–203, title X, § 10512(e)(2), Dec. 22, 1987, 101 Stat. 1330–449, added item 5276.

§ 5271. Permits

(a) Requirements

No person shall—

(1) procure or use distilled spirits free of tax under the provisions of section 5214(a)(2) or (3); or

(2) procure, deal in, or use specially denatured distilled spirits; or

(3) recover specially or completely denatured distilled spirits, until he has filed an application with and received a permit to do so from the Secretary.

(b) Form of application and permit

(1) The application required by subsection (a) shall be in such form, shall be submitted at such times, and shall contain such information, as the Secretary shall by regulations prescribe.

(2) Permits under this section shall, under such regulations as the Secretary shall prescribe, designate and limit the acts which are permitted, and the place where and time when such acts may be performed. Such permits shall be issued in such form and under such conditions as the Secretary may by regulations prescribe.

(c) Disapproval of application

Any application submitted under this section may be disapproved and the permit denied if the Secretary, after notice and opportunity for hearing, finds that—

(1) in case of an application to withdraw and use distilled spirits free of tax, the applicant is not authorized by law or regulations issued pursuant thereto to withdraw or use such distilled spirits; or

(2) the applicant (including, in the case of a corporation, any officer, director, or principal stockholder, and, in the case of a partnership, a partner) is, by reason of his business experience, financial standing, or trade connections, not likely to maintain operations in compliance with this chapter; or

(3) the applicant has failed to disclose any material information required, or made any false statement as to any material fact, in connection with his application; or

(4) the premises on which it is proposed to conduct the business are not adequate to protect the revenue.

(d) Changes after issuance of permit

With respect to any change relating to the information contained in the application for a permit issued under this section, the Secretary may by regulations require the filing of written notice of such change and, where the change affects the terms of the permit, require the filing of an amended application.

(e) Suspension or revocation

If, after notice and hearing, the Secretary finds that any person holding a permit issued under this section—

(1) has not in good faith complied with the provisions of this chapter or regulations issued thereunder; or

(2) has violated the conditions of such permit; or

(3) has made any false statement as to any material fact in his application therefor; or

(4) has failed to disclose any material information required to be furnished; or

(5) has violated or conspired to violate any law of the United States relating to intoxicating liquor, or has been convicted of any offense under this title punishable as a felony or of any conspiracy to commit such offense; or

(6) is, in the case of any person who has a permit under subsection (a)(1) or (a)(2), by reason of his operations, no longer warranted in procuring or using the distilled spirits or specially denatured distilled spirits authorized by his permit; or

(7) has, in the case of any person who has a permit under subsection (a)(2), manufactured articles which do not correspond to the descriptions and limitations prescribed by law and regulations; or

(8) has not engaged in any of the operations authorized by the permit for a period of more than 2 years;

such permit may, in whole or in part, be revoked or be suspended for such period as the Secretary deems proper.

(f) Duration of permits

Permits issued under this section, unless terminated by the terms of the permit, shall continue in effect until suspended or revoked as provided in this section, or until voluntarily surrendered.

(g) Posting of permits

Permits issued under this section, to use distilled spirits free of tax, to deal in, or use specially denatured distilled spirits, or to recover specially or completely denatured distilled spirits, shall be kept posted available for inspection on the premises covered by the permit.

(h) Regulations

The Secretary shall prescribe all necessary regulations relating to issuance, denial, suspension, or revocation, of permits under this section, and for the disposition of distilled spirits (including specially denatured distilled spirits) procured under permit pursuant to this section which remain unused when such permit is no longer in effect.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1370; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5271, act Aug. 16, 1954, ch. 736, 68A Stat. 650, related to "notice of business of rectifier", prior to the general revision of this chapter by Pub. L. 85–859. See sections 5171(a), (c), 5172, and 5178(a)(1)(A), (4)(B)–(D) of this title.

Provisions similar to those comprising subsecs. (a) to (f) and (h) of this section were contained in prior section 5304(a)(1) to (4), (b), (c), act Aug. 16, 1954, ch. 736, 68A Stat. 655, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Subsecs. (a) to (e), (h). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

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.

§ 5272. Bonds

(a) Requirements

Before any permit required by section 5271(a) is granted, the Secretary may require a bond, in such form and amount as he may prescribe, to insure compliance with the terms of the permit and the provisions of this chapter.

(b) Exceptions

No bond shall be required in the case of permits issued to the United States or any governmental agency thereof, or to the several States or any political subdivision thereof, or to the District of Columbia.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1372; amended Pub. L. 94–455, title XIX, §§ 1905(c)(3), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1823, 1834.)

PRIOR PROVISIONS

A prior section 5272, act Aug. 16, 1954, ch. 736, 68A Stat. 650, related to requirement and approval of bond as condition to commencing business of rectifier of spirits, prior to the general revision of this chapter by Pub. L. 85–859. See section 5173(a), (d) of this title.

Provisions similar to those comprising this section were contained in prior sections 5304(a)(5) and 5310(d), act Aug. 16, 1954, ch. 736, 68A Stat. 655, 658, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (b). Pub. L. 94–455, § 1905(c)(3), struck out ''and Territories'' after ''several States''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(c)(3) 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.

§ 5273. Sale, use, and recovery of denatured distilled spirits

(a) Use of specially denatured distilled spirits

Any person using specially denatured distilled spirits in the manufacture of articles shall file such formulas and statements of process, submit such samples, and comply with such other requirements, as the Secretary shall by regulations prescribe, and no person shall use specially denatured distilled spirits in the manufacture or production of any article until approval of the article, formula, and process has been obtained from the Secretary.

(b) Internal medicinal preparations and flavoring extracts

(1) Manufacture

No person shall use denatured distilled spirits in the manufacture of medicinal preparations or flavoring extracts for internal human use where any of the spirits remains in the finished product.

(2) Sale

No person shall sell or offer for sale for internal human use any medicinal preparations or flavoring extracts manufactured from denatured distilled spirits where any of the spirits remains in the finished product.

(c) Recovery of spirits for reuse in manufacturing

Manufacturers employing processes in which denatured distilled spirits withdrawn under section 5214(a)(1) are expressed, evaporated, or otherwise removed, from the articles manufactured shall be permitted to recover such distilled spirits and to have such distilled spirits restored to a condition suitable solely for reuse in manufacturing processes under such regulations as the Secretary may prescribe.

(d) Prohibited withdrawal or sale

No person shall withdraw or sell denatured distilled spirits, or sell any article containing denatured distilled spirits for beverage purposes.

(e) Cross references

(1) For penalty and forfeiture for unlawful use or concealment of denatured distilled spirits, see section 5607.

(2) For applicability of all provisions of law relating to distilled spirits that are not denatured, including those requiring payment of tax, to denatured distilled spirits or articles produced, withdrawn, sold, transported, or used in violation of law or regulations, see section 5001(a)(6).[1]

(3) For definition of "articles", see section 5002(a)(14).

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1372; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–39, title VIII, § 807(a)(39), July 26, 1979, 93 Stat. 286.)

REFERENCES IN TEXT

Section 5001(a)(6), referred to in subsec. (e)(2), was redesignated section 5001(a)(5) by Pub. L. 103–465, title I, § 136(a), Dec. 8, 1994, 108 Stat. 4841.

PRIOR PROVISIONS

A prior section 5273, act Aug. 16, 1954, ch. 736, 68A Stat. 650, related to premises of rectifier, prior to the general revision of this chapter by Pub. L. 85–859. See section 5178(a)(1)(A), (4)(B), (D) and (c)(1) of this title.

Provisions similar to those comprising this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85–859, as follows:

Present subsecs.:	*Prior sections*
(a)	5331(a), (b).
(b)	5303, 5305, 5310(a), 5331(a)(1), (2), (b), 5647.
(c)	5332.
(d)	5303, 5305, 5310(a), 5331(a), 5647.
(e)(1), (2)	5334.

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 655, 657, 658, 661, 662, 693.

AMENDMENTS

1979—Subsec. (e)(3). Pub. L. 96–39 substituted ''section 5002(a)(14)'' for ''section 5002(a)(11)''.

[1] See References in Text note below.

1976—Subsecs. (a), (c). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

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.

§ 5274. Applicability of other laws

The provisions, including penalties, of sections 9, and 10 of the Federal Trade Commission Act (15 U.S.C., secs. 49, 50), as now or hereafter amended, shall apply to the jurisdiction, powers, and duties of the Secretary under this subtitle, and to any person (whether or not a corporation) subject to the provisions of this subtitle.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1372; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5274, act Aug. 16, 1954, ch. 736, 68A Stat. 651, related to sign required on rectifying premises, prior to the general revision of this chapter by Pub. L. 85–859. See section 5180 of this title.

Provisions similar to those comprising this section were contained in prior section 5317(b), act Aug. 16, 1954, ch. 736, 68A Stat. 660, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

§ 5275. Records and reports

Every person procuring or using distilled spirits withdrawn under section 5214(a)(2) or (3), or procuring, dealing in, or using specially denatured distilled spirits, or recovering specially denatured or completely denatured distilled spirits, shall keep such records and file such reports of the receipt and use of distilled spirits withdrawn free of tax, of the receipt, disposition, use, and recovery of denatured distilled spirits, the manufacture and disposition of articles, and such other information as the Secretary may be regulations require. The Secretary may require any person reprocessing, bottling or repackaging articles, or dealing in completely denatured distilled spirits or articles, to keep such records, submit such reports, and comply with such other requirements as he may by regulations prescribe. Records required to be kept under this section and a copy of all reports required to be filed shall be preserved as regulations shall prescribe and shall be kept available for inspection by any internal revenue officer during business hours. Such officer may also inspect and take samples of distilled spirits, denatured distilled spirits, or articles (including any substances for use in the manufacture thereof), to which such records or reports relate.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1373; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5275, act Aug. 16, 1954, ch. 736, 68A Stat. 651, related to cross references, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5179(2) and 5181 of this title.

Provisions similar to those comprising this section were contained in prior sections 5305, 5313(b), and 5331(a)(3), act Aug. 16, 1954, ch. 736, 68A Stat. 657, 659, 662, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

[§ 5276. Repealed. Pub. L. 109–59, title XI, § 11125(a)(3), Aug. 10, 2005, 119 Stat. 1953]

Section, added Pub. L. 100–203, title X, § 10512(e)(1), Dec. 22, 1987, 101 Stat. 1330–448; amended Pub. L. 100–647, title II, § 2004(t)(1), title VI, § 6105(a), (b), Nov. 10, 1988, 102 Stat. 3609, 3711; Pub. L. 101–239, title VII, § 7816(*o*), Dec. 19, 1989, 103 Stat. 2422, related to occupational tax on permit holders.

PRIOR PROVISIONS

A prior section 5281, act Aug. 16, 1954, ch. 736, 68A Stat. 651, related to regulation of business rectifier, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5282, act Aug. 16, 1954, ch. 736, 68A Stat. 651, related to rectification of spirits, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5283, act Aug. 16, 1954, ch. 736, 68A Stat. 652, related to examination of rectifying premises, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5284, act Aug. 16, 1954, ch. 736, 68A Stat. 652, related to prohibited hours for removal of distilled spirits, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5285, act Aug. 16, 1954, ch. 736, 68A Stat. 652, related to records and returns, prior to the general revision of this chapter by Pub. L. 85–859.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 2008, but inapplicable to taxes imposed for periods before such date, see section 11125(c) of Pub. L. 109–59, set out as an Effective Date of 2005 Amendment note under section 5002 of this title.

Subchapter E—General Provisions Relating to Distilled Spirits

Part
I. Return of materials used in the manufacture or recovery of distilled spirits.
II. Regulation of traffic in containers of distilled spirits.
III. Miscellaneous provisions.

PRIOR PROVISIONS

A prior subchapter E, Industrial Alcohol Plants, Bonded Warehouses, Denaturing Plants, and Denaturation, consisted of part I, Industrial Alcohol Plants, Bonded Warehouses, and Denaturing Plants and part II, Denaturation, and consisted of sections 5301 to 5320 and 5331 to 5334, respectively, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

PART I—RETURN OF MATERIALS USED IN THE MANUFACTURE OR RECOVERY OF DISTILLED SPIRITS

Sec.
5291. General.

PRIOR PROVISIONS

A prior part I, Industrial Alcohol Plants, Bonded Warehouses, and Denaturing Plants, consisted of sections 5301 to 5320, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

§ 5291. General

(a) Requirement

Every person disposing of any substance of the character used in the manufacture of distilled spirits, or disposing of denatured distilled spirits or articles from which distilled spirits may be recovered, shall, when required by the Secretary, render a correct return, in such form and manner as the Secretary may by regulations prescribe, showing the name and address of the person to whom each disposition was made, with such details, as to the quantity so disposed of or other information which the Secretary may require as to each such disposition, as will enable the Secretary to determine whether all taxes due with respect to any distilled spirits manufactured or recovered from any such substance, denatured, distilled spirits, or articles, have been paid. Every person required to render a return under this section shall keep such records as will enable such person to render a correct return. Such records shall be preserved for such period as the Secretary shall by regulations prescribe, and shall be kept available for inspection by any internal revenue officer during business hours.

(b) Cross references

(1) For the definition of distilled spirits, see section 5002(a)(8).

(2) For the definition of articles, see section 5002(a)(14).

(3) For penalty for violation of subsection (a), see section 5605.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1373; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–39, title VIII, § 807(a)(40), July 26, 1979, 93 Stat. 286.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior section 5213, act Aug. 16, 1954, ch. 736, 68A Stat. 639, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1979—Subsec. (b)(1). Pub. L. 96–39, § 807(a)(40)(A), substituted ''section 5002(a)(8)'' for ''section 5002(a)(6)''.

Subsec. (b)(2). Pub. L. 96–39, § 807(a)(40)(B), substituted ''section 5002(a)(14)'' for ''section 5002(a)(11)''.

1976—Subsec. (a). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

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

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.

PART II—REGULATION OF TRAFFIC IN CONTAINERS OF DISTILLED SPIRITS

Sec.
5301. General.

PRIOR PROVISIONS

A prior part II, Denaturation, consisted of section 5331 to 5334, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

§ 5301. General

(a) Requirements

Whenever in his judgment such action is necessary to protect the revenue, the Secretary is authorized, by the regulations prescribed by him and permits issued thereunder if required by him—

(1) to regulate the kind, size, branding, marking, sale, resale, possession, use, and reuse of containers (of a capacity of not more than 5 wine gallons) designed or intended for use for the sale of distilled spirits (within the meaning of such term as it is used in section 5002(a)(8) for other than industrial use; and

(2) to require, of persons manufacturing, dealing in, or using any such containers, the submission to such inspection, the keeping of such records, and the filing of such reports as may be deemed by him reasonably necessary in connection therewith.

Any requirements imposed under this section shall be in addition to any other requirements imposed by, or pursuant to, law and shall apply as well to persons not liable for tax under the internal revenue laws as to persons so liable.

(b) Disposition

Every person disposing of containers of the character used for the packaging of distilled spirits shall, when required by the Secretary for protection of the revenue, render a correct return, in such form and manner as the Secretary may by regulations prescribe, showing the name and address of the person to whom each disposition was made, with such details as to the quantities so disposed of or other information which the Secretary may require as to each such disposition. Every person required to render a return under this section shall keep such records as will enable such person to render a correct return. Such records shall be preserved for such period as the Secretary shall by regulations prescribe, and shall be kept available for inspection by any internal revenue officer during business hours.

(c) Refilling of liquor bottles

No person who sells, or offers for sale, distilled spirits, or agent or employee of such person, shall—

(1) place in any liquor bottle any distilled spirits whatsoever other than those contained in such bottle at the time of tax determination under the provisions of this chapter; or

(2) possess any liquor bottle in which any distilled spirits have been placed in violation of the provisions of paragraph (1); or

(3) by the addition of any substance whatsoever to any liquor bottle, in any manner alter or increase any portion of the original contents contained in such bottle at the time of tax determination under the provisions of this chapter; or

(4) possess any liquor bottle, any portion of the contents of which has been altered or increased in violation of the provisions of paragraph (3);

except that the Secretary may by regulations authorize the reuse of liquor bottles, under such

conditions as he may by regulations prescribe. When used in this subsection the term ''liquor bottle'' shall mean a liquor bottle or other container which has been used for the bottling or packaging of distilled spirits under regulations issued pursuant to subsection (a).

(d) Closures

The immediate container of distilled spirits withdrawn from bonded premises, or from customs custody, on determination of tax shall bear a closure or other device which is designed so as to require breaking in order to gain access to the contents of such container. The preceding sentence shall not apply to containers of bulk distilled spirits.

(e) Penalty

For penalty for violation of this section, see section 5606.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1374; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–39, title VIII, § 807(a)(41), July 26, 1979, 93 Stat. 287; Pub. L. 98–369, div. A, title IV, § 454(b), (c)(9), July 18, 1984, 98 Stat. 820, 821.)

PRIOR PROVISIONS

A prior section 5301, act Aug. 16, 1954, ch. 736, 68A Stat. 654, related to establishment of industrial alcohol plants, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5171(a), (b)(1), 5172, 5173(a), (b) of this title.

Provisions similar to those comprising subsecs. (a), (c), and (d) of this section were contained in prior section 5214, act Aug. 16, 1954, ch. 736, 68A Stat. 639, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5302, act Aug. 16, 1954, ch. 736, 68A Stat. 645, related to the establishment of industrial alcohol warehouses, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5171(a), (b)(1), 5172, 5173(a), (c), 5178(a)(3)(A), (B), 5201(a), and 5206(a) of this title.

A prior section 5303, act Aug. 16, 1954, ch. 736, 68A Stat. 655, related to establishment of industrial alcohol denaturing plants, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5171(a), (b)(1), 5172, 5173(a), (c), 5178(a)(5), 5241, 5242, and 5273(b)(1), (2), (d) of this title.

A prior section 5304, act Aug. 16, 1954, ch. 736, 68A Stat. 655, related to alcohol permits, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5171(b)(1), 5173(a), (e)(1), 5271(a) to (c), (e), (f), (h), and 5272(a) of this title.

A prior section 5305, act Aug. 16, 1954, ch. 736, 68A Stat. 657, related to regulations for establishing, bonding, and operations of plants and warehouses, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5171, 5172, 5173(a), 5178(a)(1)(A), (5), 5201(a), (b), 5207(a), (c), (d), 5211, 5223(a), 5235, 5273(b)(1), (2), (d), 5275, and 5312(b) of this title.

A prior section 5306, act Aug. 16, 1954, ch. 736, 68A Stat. 657, related to exemption of industrial alcohol plants and warehouses from certain laws, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5025(d), (e)(1), 5173(c), 5201(a), (c), 5204(c), 5234(a)(1)(A), 5306, and 5312(c) of this title.

A prior section 5307, act Aug. 16, 1954, ch. 736, 68A Stat. 657, related to production, use, or sale of alcohol, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5178(a)(2)(A) and 5201(a) of this title.

A prior section 5308, act Aug. 16, 1954, ch. 736, 68A Stat. 657, related to transfer of alcohol to other plants or warehouses, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5212 and 5223(a) of this title.

A prior section 5309, act Aug. 16, 1954, ch. 736, 68A Stat. 658, related to withdrawal of fermented liquors to industrial alcohol plants, prior to the general revision of this chapter by Pub. L. 85–859. See section 5222(b) of this title.

A prior section 5310, act Aug. 16, 1954, ch. 736, 68A Stat. 658, related to withdrawal of alcohol free of tax, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5214(a), (a)(1) to (3), 5241, 5242, 5272(b), 5273(b)(1), (2), (d), and 5313 of this title.

AMENDMENTS

1984—Subsec. (c). Pub. L. 98–369, § 454(c)(9), substituted ''tax determination'' for ''stamping'' in pars. (1) and (3), and struck out '', if the liquor bottles are to be again stamped under the provisions of this chapter'' after ''by regulations prescribe'' in provisions following par. (4).

Subsec. (d). Pub. L. 98–369, § 454(b), added subsec. (d) and redesignated former subsec. (d) as (e).

1979—Subsec. (a)(1). Pub. L. 96–39 substituted ''section 5002(a)(8)'' for ''section 5002(a)(6)''.

1976—Subsecs. (a) to (c). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective July 1, 1985, see section 456(b) of Pub. L. 98–369, set out as an Effective Date note under section 5101 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

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.

PART III—MISCELLANEOUS PROVISIONS

Sec.
5311. Detention of containers.
5312. Production and use of distilled spirits for experimental research.
5313. Withdrawal of distilled spirits from customs custody free of tax for use of the United States.
5314. Special applicability of certain provisions.
[5315. Repealed.]

AMENDMENTS

1976—Pub. L. 94–455, title XIX, § 1905(b)(4), Oct. 4, 1976, 90 Stat. 1822, struck out item 5315 ''Status of certain distilled spirits on July 1, 1959''.

§ 5311. Detention of containers

It shall be lawful for any internal revenue officer to detain any container, containing or supposed to contain, distilled spirits, wines, or beer, when he has reason to believe that the tax imposed by law on such distilled spirits, wines, or beer has not been paid or determined as required by law, or that such container is being removed in violation of law; and every such container may be held by him at a safe place until it shall be determined whether the property so detained is liable by law to be proceeded against for forfeiture; but such summary detention shall not continue in any case longer than 72 hours without process of law or intervention of the officer to whom such detention is to be reported.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1375.)

PRIOR PROVISIONS

A prior section 5311, act Aug. 16, 1954, ch. 736, 68A Stat. 658, related to importation of alcohol for indus-

trial purposes, prior to the general revision of this chapter by Pub. L. 85–859. See section 5232 of this title.

Provisions similar to those comprising this section were contained in prior section 5211, act Aug. 16, 1954, ch. 736, 68A Stat. 638, prior to the general revision of this chapter by Pub. L. 85–859.

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.

§ 5312. Production and use of distilled spirits for experimental research

(a) Scientific institutions and colleges of learning

Under such regulations as the Secretary may prescribe and on the filing of such bonds and applications as he may require, any scientific university, college of learning, or institution of scientific research may produce, receive, blend, treat, test, and store distilled spirits, without payment of tax, for experimental or research use but not for consumption (other than organoleptic tests) or sale, in such quantities as may be reasonably necessary for such purposes.

(b) Experimental distilled spirits plants

Under such regulations as the Secretary may prescribe and on the filing of such bonds and applications as he may require, experimental distilled spirits plants may, at the discretion of the Secretary, be established and operated for specific and limited periods of time solely for experimentation in, or development of—

(1) sources of materials from which distilled spirits may be produced;

(2) processes by which distilled spirits may be produced or refined; or

(3) industrial uses of distilled spirits.

(c) Authority to exempt

The Secretary may by regulations provide for the waiver of any provision of this chapter (other than this section) to the extent he deems necessary to effectuate the purposes of this section, except that he may not waive the payment of any tax on distilled spirits removed from any such university, college, institution, or plant.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1375; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5312, act Aug. 16, 1954, ch. 736, 68A Stat. 659, made a cross reference to remission and refund of tax on alcohol for loss or leakage, prior to the general revision of this chapter by Pub. L. 85–859.

Provisions similar to those comprising this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85–859, as follows:

Present subsecs.:	*Prior sections*
(a)	5215.
(b)	5305.
(c)	5215, 5306.

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 640, 657.

AMENDMENTS

1976—Subsecs. (a) to (c). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

§ 5313. Withdrawal of distilled spirits from customs custody free of tax for use of the United States

Distilled spirits may be withdrawn free of tax from customs custody by the United States or any governmental agency thereof for its own use for nonbeverage purposes, under such regulations as may be prescribed by the Secretary.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1375; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5313, act Aug. 16, 1954, ch. 736, 68A Stat. 659, related to powers and duties of persons enforcing provisions respecting industrial alcohol plants, bonded warehouses, and denaturing plants, prior to the general revision of this chapter by Pub. L. 85–859. See section 5275 of this title.

Provisions similar to those comprising this section were contained in prior section 5310(b), act Aug. 16, 1954, ch. 736, 68A Stat. 658, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

§ 5314. Special applicability of certain provisions

(a) Puerto Rico

(1) Applicability

The provisions of this subsection shall not apply to the Commonwealth of Puerto Rico unless the Legislative Assembly of the Commonwealth of Puerto Rico expressly consents thereto in the manner prescribed in the constitution of the Commonwealth of Puerto Rico, for the enactment of a law.

(2) In general

Distilled spirits for the purposes authorized in section 5214(a)(2) and (3), denatured distilled spirits, and articles, as described in this paragraph, produced or manufactured in Puerto Rico, may be brought into the United States free of any tax imposed by section 5001(a)(10)[1] or 7652(a)(1) for disposal under the same conditions as like spirits, denatured spirits, and articles, produced or manufactured in the United States; and the provisions of this chapter and regulations promulgated thereunder (and all other provisions of the internal revenue laws applicable to the enforcement thereof, including the penalties of special application thereto) relating to the production, bonded warehousing, and denaturation of distilled spirits, to the withdrawal of distilled spirits or denatured distilled spirits, and to the manufacture of articles from denatured distilled spirits, shall, insofar as applicable, extend to and apply in Puerto Rico in respect of—

(A) distilled spirits for shipment to the United States for the purposes authorized in section 5214(a)(2) and (3);

(B) distilled spirits for denaturation;

(C) denatured distilled spirits for shipment to the United States;

(D) denatured distilled spirits for use in the manufacture of articles for shipment to the United States; and

[1] See References in Text note below.

(E) articles, manufactured from denatured distilled spirits, for shipment to the United States.

(3) Withdrawals authorized by Puerto Rico

Distilled spirits (including denatured distilled spirits) may be withdrawn from the bonded premises of a distilled spirits plant in Puerto Rico pursuant to authorization issued under the laws of the Commonwealth of Puerto Rico; such spirits so withdrawn, and products containing such spirits so withdrawn, may not be brought into the United States free of tax.

(4) Costs of administration

Any expenses incurred by the Treasury Department in connection with the enforcement in Puerto Rico of the provisions of this subtitle and section 7652(a), and regulations promulgated thereunder, shall be charged against and retained out of taxes collected under this title in respect of commodities of Puerto Rican manufacture brought into the United States. The funds so retained shall be deposited as a reimbursement to the appropriation to which such expenses were originally charged.

(b) Virgin Islands

(1) In general

Distilled spirits for the purposes authorized in section 5214(a)(2) and (3), denatured distilled spirits, and articles, as described in this paragraph, produced or manufactured in the Virgin Islands, may be brought into the United States free of any tax imposed by section 7652(b)(1) for disposal under the same conditions as like spirits, denatured spirits, and articles, produced or manufactured in the United States; and the provisions of this chapter and regulations promulgated thereunder (and all other provisions of the internal revenue laws applicable to the enforcement thereof, including the penalties of special application thereto) relating to the production, bonded warehousing, and denaturation of distilled spirits, to the withdrawal of distilled spirits or denatured distilled spirits, and to the manufacture of articles from denatured distilled spirits, shall, insofar as applicable, extend to and apply in the Virgin Islands in respect of—

(A) distilled spirits for shipment to the United States for the purposes authorized in section 5214(a)(2) and (3);

(B) distilled spirits for denaturation;

(C) denatured distilled spirits for shipment to the United States;

(D) denatured distilled spirits for use in the manufacture of articles for shipment to the United States; and

(E) articles, manufactured from denatured distilled spirits, for shipment to the United States.

(2) Advance of funds

The insular government of the Virgin Islands shall advance to the Treasury of the United States such funds as may be required from time to time by the Secretary for the purpose of defraying all expenses incurred by the Treasury Department in connection with the enforcement in the Virgin Islands of paragraph (1) and regulations promulgated thereunder. The funds so advanced shall be deposited in a separate trust fund in the Treasury of the United States and shall be available to the Treasury Department for the purposes of this subsection.

(3) Regulations issued by Virgin Islands

The Secretary may authorize the Governor of the Virgin Islands, or his duly authorized agents, to issue or adopt such regulations, to approve such bonds, and to issue, suspend, or revoke such permits, as are necessary to carry out the provisions of this subsection. When regulations have been issued or adopted under this paragraph with concurrence of the Secretary he may exempt the Virgin Islands from any provisions of law and regulations otherwise made applicable by the provisions of paragraph (1), except that denatured distilled spirits, articles and distilled spirits for tax-free purposes which are brought into the United States from the Virgin Islands under the provisions of this subsection shall in all respects conform to the requirements of law and regulations imposed on like products of domestic manufacture.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1375; amended Pub. L. 94–455, title XIX, §§ 1905(a)(18), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1820, 1834.)

REFERENCES IN TEXT

Section 5001(a)(10), referred to in subsec. (a)(2), was redesignated section 5001(a)(9) by Pub. L. 103–465, title I, § 136(a), Dec. 8, 1994, 108 Stat. 4841.

PRIOR PROVISIONS

A prior section 5314, act Aug. 16, 1954, ch. 736, 68A Stat. 659, related to officers and agents authorized to investigate, issue search warrants, and prosecute for violations, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5557 of this title.

Provisions similar to those comprising subsec. (a)(2) of this section were contained in prior section 5318, act Aug. 16, 1954, ch. 736, 68A Stat. 660, prior to the general revisions of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Subsec. (a)(2). Pub. L. 94–455, § 1905(a)(18), substituted ''section 5001(a)(10)'' for ''section 5001(a)(4)''.

Subsec. (b)(2), (3). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(a)(18) 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.

[§ 5315. Repealed. Pub. L. 94–455, title XIX, § 1905(a)(19), Oct. 4, 1976, 90 Stat. 1820]

Section 5315, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1377, related to status of certain distilled spirits on July 1, 1959.

A prior section 5316, act Aug. 16, 1954, ch. 736, 68A Stat. 660, related to form of affidavit, information or indictment, prior to the general revision of this chapter by Pub. L. 85–859. See Fed. Rules Cr. Proc., rules 7(c), (f), and 8(a), Title 18, Appendix, Crimes and Criminal Procedure.

A prior section 5317, act Aug. 16, 1954, ch. 736, 68A Stat. 660, related to applicability of other laws, prior to the general revision of this chapter by Pub. L. 85–859. See section 5274 of this title.

A prior section 5318, act Aug. 16, 1954, ch. 736, 68A Stat. 660, related to application of this part to Puerto Rico and the Virgin Islands, prior to the general revision of this chapter by Pub. L. 85–859. See section 5314(a)(2) of this title.

A prior section 5319, act Aug. 16, 1954, ch. 736, 68A Stat. 661, related to definitions, etc., prior to the general revision of this chapter by Pub. L. 85–859. See sections 5002(a)(6)(A), (9), (11) and 5201(a) of this title.

A prior section 5320, act Aug. 16, 1954, ch. 736, 68A Stat. 661, related to cross references, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5331, act Aug. 16, 1954, ch. 736, 68A Stat. 661, related to withdrawal from bond free of tax, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5171(a), 5172, 5173(a), (c), 5178(a)(5), 5202(e), 5207(a), (c), (d), 5214(a), (a)(1), 5241, 5242, 5273(a), (b)(1), (2), (d), and 5275 of this title.

A prior section 5332, act Aug. 16, 1954, ch. 736, 68A Stat. 662, related to recovery of spirits for reuse in manufacturing, prior to the general revision of this chapter by Pub. L. 85–859. See section 5273(c) of this title.

A prior section 5333, act Aug. 16, 1954, ch. 736, 68A Stat. 662, related to sale of abandoned spirits for denaturation without collection of tax, prior to the general revision of this chapter by Pub. L. 85–859. See section 5243 of this title.

A prior section 5334, act Aug. 16, 1954, ch. 736, 68A Stat. 662, related to cross references, prior to the general revision of this chapter by Pub. L. 85–859. See section 5273(e)(1), (2) of this title.

EFFECTIVE DATE OF REPEAL

Repeal 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 an Effective Date of 1976 Amendment note under section 5005 of this title.

Subchapter F—Bonded and Taxpaid Wine Premises

Part
I. Establishment.
II. Operations.
III. Cellar treatment and classification of wine.
IV. General.

PRIOR PROVISIONS

A prior subchapter F, Bonded and Taxpaid Wine Premises, consisted of part I, Establishment, part II, Operations, part III, Cellar Treatment and Classification of Wine, and part IV, General, and comprised sections 5351 to 5357, 5361 to 5373, 5381 to 5388, and 5391 to 5392, respectively, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

PART I—ESTABLISHMENT

Sec.
5351. Bonded wine cellar.
5352. Taxpaid wine bottling house.
5353. Bonded wine warehouse.
5354. Bond.
5355. General provisions relating to bonds.
5356. Application.
5357. Premises.

PRIOR PROVISIONS

A prior part I consisted of sections 5351 to 5357 of this title, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

§ 5351. Bonded wine cellar

Any person establishing premises for the production, blending, cellar treatment, storage, bottling, packaging, or repackaging of untaxpaid wine (other than wine produced exempt from tax under section 5042), including the use of wine spirits in wine production, shall, before commencing operations, make application to the Secretary and file bond and receive permission to operate. Such premises shall be known as ''bonded wine cellars''; except that any such premises engaging in production operations may, in the discretion of the Secretary, be designated as a ''bonded winery''.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1378; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5351, act Aug. 16, 1954, ch. 736, 68A Stat. 663, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

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.

§ 5352. Taxpaid wine bottling house

Any person bottling, packaging, or repackaging taxpaid wines shall, before commencing such operations, make application to the Secretary and receive permission to operate. Such premises shall be known as ''tax-paid wine bottling houses.''

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1378; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–39, title VIII, § 807(a)(42), July 26, 1979, 93 Stat. 287.)

PRIOR PROVISIONS

A prior section 5352, act Aug. 16, 1954, ch. 736, 68A Stat. 663, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1979—Pub. L. 96–39 struck out ''at premises other than the bottling premises of a distilled spirits plant'' after ''taxpaid wines''.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

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.

§ 5353. Bonded wine warehouse

Any responsible warehouse company or other responsible person may, upon filing application with the Secretary and consent of the proprietor and the surety on the bond of any bonded wine cellar, under regulations prescribed by the Secretary, establish on such premises facilities for the storage of wines and allied products for credit purposes, to be known as a ''bonded wine warehouse''. The proprietor of the bonded wine cellar shall remain responsible in all respects for

operations in the warehouse and the tax on the wine or wine spirit stored therein.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1379; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5353, act Aug. 16, 1954, ch. 736, 68A Stat. 663, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

§ 5354. Bond

The bond for a bonded wine cellar shall be in such form, on such conditions, and with such adequate surety, as regulations issued by the Secretary shall prescribe, and shall be in a penal sum not less than the tax on any wine or distilled spirits possessed or in transit at any one time (taking into account the appropriate amount of credit with respect to such wine under section 5041(c)), but not less than $1,000 nor more than $50,000; except that where the tax on such wine and on such distilled spirits exceeds $250,000, the penal sum of the bond shall be not more than $100,000. Where additional liability arises as a result of deferral of payment of tax payable on any return, the Secretary may require the proprietor to file a supplemental bond in such amount as may be necessary to protect the revenue. The liability of any person on any such bond shall apply whether the transaction or operation on which the liability of the proprietor is based occurred on or off the proprietor's premises.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1379; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98–369, div. A, title IV, § 455(c), July 18, 1984, 98 Stat. 823; Pub. L. 104–188, title I, § 1702(b)(7), Aug. 20, 1996, 110 Stat. 1869.)

PRIOR PROVISIONS

A prior section 5354, act Aug. 16, 1954, ch. 736, 68A Stat. 663, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1996—Pub. L. 104–188 inserted ''(taking into account the appropriate amount of credit with respect to such wine under section 5041(c))'' after ''any one time''.

1984—Pub. L. 98–369 substituted ''distilled spirits'' for ''wine spirits'' in two places.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

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 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective July 18, 1984, see section 456(c) of Pub. L. 98–369, set out as an Effective Date note under section 5101 of this title.

§ 5355. General provisions relating to bonds

The provisions of section 5551 (relating to bonds) shall be applicable to the bonds required under section 5354.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1379.)

PRIOR PROVISIONS

A prior section 5355, act Aug. 16, 1954, ch. 736, 68A Stat. 664, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

§ 5356. Application

The application required by this part shall disclose, as regulations issued by the Secretary shall provide, such information as may be necessary to enable the Secretary to determine the location and extent of the premises, the type of operations to be conducted on such premises, and whether the operations will be in conformity with law and regulations.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1379; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5356, act Aug. 16, 1954, ch. 736, 68A Stat. 664, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

§ 5357. Premises

Bonded wine cellar premises, including noncontiguous portions thereof, shall be so located, constructed, and equipped, as to afford adequate protection to the revenue, as regulations prescribed by the Secretary may provide.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1379; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5357, act Aug. 16, 1954, ch. 736, 68A Stat. 664, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

PART II—OPERATIONS

Sec.
5361. Bonded wine cellar operations.
5362. Removals of wine from bonded wine cellars.
5363. Taxpaid wine bottling house operations.
5364. Wine imported in bulk.
5365. Segregation of operations.
5366. Supervision.
5367. Records.
5368. Gauging and marking.
5369. Inventories.
5370. Losses.
5371. Insurance coverage, etc.
5372. Sampling.
5373. Wine spirits.

Sec.

PRIOR PROVISIONS

A prior part II consisted of sections 5361 to 5373 of this title, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1997—Pub. L. 105–34, title XIV, § 1422(b), Aug. 5, 1997, 111 Stat. 1050, added item 5364.

1979—Pub. L. 96–39, title VIII, § 807(b)(7), July 26, 1979, 93 Stat. 290, struck out item 5364 ''Standard wine premises''.

1976—Pub. L. 94–455, title XIX, § 1905(b)(5), Oct. 4, 1976, 90 Stat. 1822, substituted ''and marking'' for '', marking, and stamping'' in item 5368.

§ 5361. Bonded wine cellar operations

In addition to the operations described in section 5351, the proprietor of a bonded wine cellar may, subject to regulations prescribed by the Secretary, on such premises receive taxpaid wine for return to bond, reconditioning, or destruction; prepare for market and store commercial fruit products and by-products not taxable as wines; produce or receive distilling material or vinegar stock; produce (with or without added wine spirits, and without added sugar) or receive on wine premises, subject to tax as wine but not for sale or consumption as beverage wine, (1) heavy bodied blending wines and Spanish-type blending sherries, and (2) other wine products made from natural wine for nonbeverage purposes; and such other operations as may be conducted in a manner that will not jeopardize the revenue or conflict with wine operations.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1380; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–39, title VIII, § 807(a)(43), July 26, 1979, 93 Stat. 287; Pub. L. 105–34, title XIV, § 1416(b)(1), Aug. 5, 1997, 111 Stat. 1048.)

PRIOR PROVISIONS

A prior section 5361, act Aug. 16, 1954, ch. 736, 68A Stat. 664, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1997—Pub. L. 105–34 struck out ''unmerchantable'' after ''premises receive''.

1979—Pub. L. 96–39 substituted ''or receive on wine premises'' for ''or receive on standard wine premises only''.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–34 effective on the 1st day of the 1st calendar quarter that begins at least 180 days after Aug. 5, 1997, see section 1416(c) of Pub. L. 105–34, set out as a note under section 5044 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

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.

§ 5362. Removals of wine from bonded wine cellars

(a) Withdrawals on determination of tax

Wine may be withdrawn from bonded wine cellars on payment or determination of the tax thereon, under such regulations as the Secretary shall prescribe.

(b) Transfers of wine between bonded premises

(1) In general

Wine on which the tax has not been paid or determined may, under such regulations as the Secretary shall prescribe, be transferred in bond between bonded premises.

(2) Wine transferred to a distilled spirits plant may not be removed for consumption or sale as wine

Any wine transferred to the bonded premises of a distilled spirits plant—

(A) may be used in the manufacture of a distilled spirits product, and

(B) may not be removed from such bonded premises for consumption or sale as wine.

(3) Continued liability for tax

The liability for tax on wine transferred to the bonded premises of a distilled spirits plant pursuant to paragraph (1) shall (except as otherwise provided by law) continue until the wine is used in a distilled spirits product.

(4) Transfer in bond not treated as removal for consumption or sale

For purposes of this chapter, the removal of wine for transfer in bond between bonded premises shall not be treated as a removal for consumption or sale.

(5) Bonded premises

For purposes of this subsection, the term ''bonded premises'' means a bonded wine cellar or the bonded premises of a distilled spirits plant.

(c) Withdrawals of wine free of tax or without payment of tax

Wine on which the tax has not been paid or determined may, under such regulations and bonds as the Secretary may deem necessary to protect the revenue, be withdrawn from bonded wine cellars—

(1) without payment of tax for export by the proprietor or by any authorized exporter;

(2) without payment of tax for transfer to any foreign-trade zone;

(3) without payment of tax for use of certain vessels and aircraft as authorized by law;

(4) without payment of tax for transfer to any customs bonded warehouse;

(5) without payment of tax for use in the production of vinegar;

(6) without payment of tax for use in distillation in any distilled spirits plant authorized to produce distilled spirits;

(7) free of tax for experimental or research purposes by any scientific university, college of learning, or institution of scientific research;

(8) free of tax for use by or for the account of the proprietor or his agents for analysis or testing, organoleptic or otherwise; and

(9) free of tax for use by the United States or any agency thereof, and for use for analysis, testing, research, or experimentation by the governments of the several States and the District of Columbia or of any political subdivision thereof or by any agency of such governments. No bond shall be required of any such government or agency under this paragraph.

(d) Withdrawal free of tax of wine and wine products unfit for beverage use

Under such regulations as the Secretary may deem necessary to protect the revenue, wine, or wine products made from wine, when rendered unfit for beverage use, on which the tax has not been paid or determined, may be withdrawn from bonded wine cellars free of tax. The wine or wine products to be so withdrawn may be treated with methods or materials which render such wine or wine products suitable for their intended use. No wine or wine products so withdrawn shall contain more than 21 percent of alcohol by volume, or be used in the compounding of distilled spirits or wine for beverage use or in the manufacture of any product intended to be used in such compounding.

(e) Withdrawal from customs bonded warehouses for use of foreign embassies, legations, etc.

(1) In general

Notwithstanding any other provision of law, wine entered into customs bonded warehouses under subsection (c)(4) may, under such regulations as the Secretary may prescribe, be withdrawn from such warehouses for consumption in the United States by and for the official or family use of such foreign governments, organizations, and individuals who are entitled to withdraw imported wines from such warehouses free of tax. Wines transferred to customs bonded warehouses under subsection (c)(4) shall be entered, stored, and accounted for in such warehouses under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported wines.

(2) Withdrawal for domestic use

Wine entered into customs bonded warehouses under subsection (c)(4) for purposes of removal under paragraph (1) may be withdrawn therefrom for domestic use. Wines so withdrawn shall be treated as American goods exported and returned.

(3) Sale or unauthorized use prohibited

Wine withdrawn from customs bonded warehouses or otherwise brought into the United States free of tax for the official or family use of foreign governments, organizations, or individuals authorized to obtain wine free of tax shall not be sold and shall not be disposed of or possessed for any use other than an authorized use. The provisions of paragraphs (1)(B) and (3) of section 5043(a) are hereby extended and made applicable to any person selling, disposing of, or possessing any wine in violation of the preceding sentence, and to the wine involved in any such violation.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1380; amended Pub. L. 90–73, § 1(a), Aug. 29, 1967, 81 Stat. 175; Pub. L. 94–455, title XIX, §§ 1905(c)(4), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1823, 1834; Pub. L. 96–39, title VIII, § 807(a)(44), July 26, 1979, 93 Stat. 287; Pub. L. 96–601, § 2(a), (b), Dec. 24, 1980, 94 Stat. 3495.)

PRIOR PROVISIONS

A prior section 5362, act Aug. 16, 1954, ch. 736, 68A Stat. 665, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1980—Subsec. (c)(4). Pub. L. 96–601, § 2(a), substituted ''customs bonded'' for ''class 6 customs manufacturing''.

Subsec. (e). Pub. L. 96–601, § 2(b), added subsec. (e).

1979—Subsec. (b). Pub. L. 96–39 substituted references to bonded premises for references to bonded wine cellars and inserted provisions relating to wine transferred in bond to a distilled spirits plant which may not be removed for consumption or sale as wine, provisions relating to continued liability for tax on wine transferred to bonded premises, and provisions defining ''bonded premises''.

1976—Subsecs. (a) to (c). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' wherever appearing.

Subsec. (c)(9). Pub. L. 94–455, § 1905(c)(4), struck out ''and Territories'' after ''the several States''.

Subsec. (d). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

1967—Subsec. (d). Pub. L. 90–73 added subsec. (d).

EFFECTIVE DATE OF 1980 AMENDMENT

Section 2(c) of Pub. L. 96–601 provided that: ''The amendments made by this section [amending this section] shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act [Dec. 24, 1980].''

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(c)(4) 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 OF 1967 AMENDMENT

Section 1(b) of Pub. L. 90–73 provided that: ''The amendment made by subsection (a) [amending this section] shall become effective on the first day of the first month which begins 90 days or more after the date of the enactment of this Act [Aug. 29, 1967].''

§ 5363. Taxpaid wine bottling house operations

In addition to the operations described in section 5352, the proprietor of a taxpaid wine bottling house may, subject to regulations issued by the Secretary, on such premises mix wine of the same kind and taxable grade to facilitate handling; preserve, filter, or clarify wine; and conduct operations not involving wine where such operations will not jeopardize the revenue or conflict with wine operations.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1381; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–39, title VIII, § 807(a)(45), July 26, 1979, 93 Stat. 287.)

PRIOR PROVISIONS

A prior section 5363, act Aug. 16, 1954, ch. 736, 68A Stat. 665, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1979—Pub. L. 96–39 struck out provision that this subchapter apply to any wine received on the bottling premises of any distilled spirits plant for bottling, packaging, or repackaging, and to all operations relative thereto and provision that sections 5021, 5081, and 5082, not apply to the mixing or treatment of taxpaid wine under this section.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

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.

§ 5364. Wine imported in bulk

Natural wine (as defined in section 5381) imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a bonded wine cellar without payment of the internal revenue tax imposed on such wine. The proprietor of a bonded wine cellar to which such wine is transferred shall become liable for the tax on the wine withdrawn from customs custody under this section upon release of the wine from customs custody, and the importer, or the person bringing such wine into the United States, shall thereupon be relieved of the liability for such tax.

(Added Pub. L. 105–34, title XIV, § 1422(a), Aug. 5, 1997, 111 Stat. 1050; amended Pub. L. 105–206, title VI, § 6014(b)(3), July 22, 1998, 112 Stat. 820.)

PRIOR PROVISIONS

A prior section 5364, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1381, limited proprietors of bonded wine cellars or taxpaid wine bottling houses to the production, reception, storage, or use of only standard wine, prior to repeal by Pub. L. 96–39, title VIII, §§ 807(a)(46), 810, July 26, 1979, 93 Stat. 287, 292, eff. Jan. 1, 1980.

Another prior section 5364, act Aug. 16, 1954, ch. 736, 68A Stat. 665, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1998—Pub. L. 105–206 substituted ''Natural wine (as defined in section 5381) imported or brought into'' for ''Wine imported or brought into'' in first sentence.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

EFFECTIVE DATE

Section 1422(c) of Pub. L. 105–34 provided that: ''The amendments made by this section [enacting this section] shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act [Aug. 5, 1997].''

§ 5365. Segregation of operations

The Secretary may require by regulations such segregation of operations within the premises, by partitions or otherwise, as may be necessary to prevent jeopardy to the revenue, to prevent confusion between untaxpaid wine operations and such other operations as are authorized in this subchapter, to prevent substitution with respect to the several methods of producing effervescent wines, and to prevent the commingling of standard wines with other than standard wines.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1381; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–39, title VIII, § 807(a)(47), July 26, 1979, 93 Stat. 287.)

PRIOR PROVISIONS

A prior section 5365, act Aug. 16, 1954, ch. 736, 68A Stat. 665, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1979—Pub. L. 96–39 authorized segregation of operations to prevent the commingling of standard wines with other than standard wines.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

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.

§ 5366. Supervision

The Secretary may by regulations require that operations at a bonded wine cellar or taxpaid wine bottling house be supervised by an internal revenue officer where necessary for the protection of the revenue or for the proper enforcement of this subchapter.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1381; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5366, act Aug. 16, 1954, ch. 736, 68A Stat. 666, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

§ 5367. Records

The proprietor of a bonded wine cellar or a tax-paid wine bottling house shall keep such records and file such returns, in such form and containing such information, as the Secretary may by regulations provide.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1381; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5367, act Aug. 16, 1954, ch. 736, 68A Stat. 666, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

§ 5368. Gauging and marking

(a) Gauging and marking

All wine or wine spirits shall be locked, sealed, and gauged, and shall be marked, branded, labeled, or otherwise identified, in such manner as the Secretary may by regulations prescribe.

(b) Marking

Wines shall be removed in such containers (including vessels, vehicles, and pipelines) bearing such marks and labels evidencing compliance with this chapter, as the Secretary may by regulations prescribe.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1381; amended Pub. L. 94–455, title XIX, §§ 1905(a)(20), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1820, 1834.)

PRIOR PROVISIONS

A prior section 5368, act Aug. 16, 1954, ch. 736, 68A Stat. 666, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Pub. L. 94–455 substituted ''Gauging and marking'' for ''Gauging, marking, and stamping'' in section catchline, substituted ''Marking'' for ''Stamping'' in heading for subsec. (b), and, in text of subsec. (b), substituted ''marks and labels'' for ''marks, labels, and stamps'' and struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(a)(20) 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.

§ 5369. Inventories

Each proprietor of premises subject to the provisions of this subchapter shall take and report such inventories as the Secretary may by regulations prescribe.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1381; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5369, act Aug. 16, 1954, ch. 736, 68A Stat. 666, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

§ 5370. Losses

(a) General

No tax shall be collected in respect of any wines lost or destroyed while in bond, except that tax shall be collected—

(1) Theft

In the case of loss by theft, unless the Secretary shall find that the theft occurred without connivance, collusion, fraud, or negligence on the part of the proprietor or other person responsible for the tax, or the owner, consignor, consignee, bailee, or carrier, or the agents or employees of any of them; and

(2) Voluntary destruction

In the case of voluntary destruction, unless the wine was destroyed under Government supervision, or on such adequate notice to, and approval by, the Secretary as regulations shall provide.

(b) Proof of loss

In any case in which the wine is lost or destroyed, whether by theft or otherwise, the Secretary may require by regulations the proprietor of the bonded wine cellar or other person liable for the tax to file a claim for relief from the tax and submit proof as to the cause of such loss. In every case where it appears that the loss was by theft, the burden shall be on the proprietor or other person liable for the tax to establish to the satisfaction of the Secretary, that such loss did not occur as the result of connivance, collusion, fraud, or negligence on the part of the proprietor, owner, consignor, consignee, bailee, or carrier, or the agents or employees of any of them.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1381; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5370, act Aug. 16, 1954, ch. 736, 68A Stat. 666, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

§ 5371. Insurance coverage, etc.

Any remission, abatement, refund, or credit of, or other relief from, taxes on wines or wine spirits authorized by law shall be allowed only to the extent that the claimant is not indemnified or recompensed for the tax.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1382.)

PRIOR PROVISIONS

A prior section 5371, act Aug. 16, 1954, ch. 736, 68A Stat. 667, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

§ 5372. Sampling

Under regulations prescribed by the Secretary, wine may be utilized in any bonded wine cellar for testing, tasting, or sampling, free of tax.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1382; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5372, act Aug. 16, 1954, ch. 736, 68A Stat. 667, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

§ 5373. Wine spirits

(a) In general

The wine spirits authorized to be used in wine production shall be brandy or wine spirits produced in a distilled spirits plant (with or without the use of water to facilitate extraction and distillation) exclusively from—

(1) fresh or dried fruit, or their residues,

(2) the wine or wine residues, therefrom, or

(3) special natural wine under such conditions as the Secretary may by regulations prescribe;

except that where, in the production of natural wine or special natural wine, sugar has been used, the wine or the residuum thereof may not be used if the unfermented sugars therein have been refermented. Such wine spirits shall not be reduced with water from distillation proof, nor be distilled, unless regulations otherwise provide, at less than 140 degrees of proof (except that commercial brandy aged in wood for a period of not less than 2 years, and barreled at not less than 100 degrees of proof, shall be deemed wine spirits for the purpose of this subsection).

(b) Withdrawal of wine spirits

(1) The proprietor of any bonded wine cellar may withdraw and receive wine spirits without payment of tax from the bonded premises of any distilled spirits plant, or from any bonded wine cellar as provided in paragraph (2), for use in the production of natural wine, for addition to concentrated or unconcentrated juice for use in wine production, or for such other uses as may be authorized in this subchapter.

(2) Wine spirits so withdrawn, and not used in wine production or as otherwise authorized in this subchapter, may, as provided by regulations prescribed by the Secretary, be transferred to the bonded premises of any distilled spirits plant or bonded wine cellar, or may be taxpaid and removed as provided by law.

(3) On such use, transfer, or taxpayment, the Secretary shall credit the proprietor with the amount of wine spirits so used or transferred or taxpaid and, in addition, with such portion of wine spirits so withdrawn as may have been lost either in transit or on the bonded wine cellar premises, to the extent allowable under section 5008(a). Where the proprietor has used wine spirits in actual wine production but in violation of the requirements of this subchapter, the Secretary shall also extend such credit to the wine spirits so used if the proprietor satisfactorily shows that such wine spirits were not knowingly used in violation of law.

(4) Suitable samples of brandy or wine spirits may, under regulations prescribed by the Secretary, be withdrawn free of tax from the bonded premises of any distilled spirits plant, bonded wine cellar, or authorized experimental premises, for analysis or testing.

(c) Distillates containing aldehydes

When the Secretary deems such removal and use will not jeopardize the revenue nor unduly increase administrative supervision, distillates containing aldehydes may, under such regulations as the Secretary may prescribe, be removed without payment of tax from the bonded premises of a distilled spirits plant to an adjacent bonded wine cellar and used therein in fermentation of wine to be used as distilling material at the distilled spirits plant from which such unfinished distilled spirits were removed.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1382; amended Pub. L. 90–619, § 1, Oct. 22, 1968, 82 Stat. 1236; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5373, act Aug. 16, 1954, ch. 736, 68A Stat. 667, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1968—Subsec. (a). Pub. L. 90–619 inserted special natural wine, under conditions prescribed by regulations, as one of the materials from which wine spirits may be produced and extended to special natural wines the existing prohibition on the use of natural wine whose sugars have been refermented.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 6 of Pub. L. 90–619 provided that: ''The amendments made by this Act [amending this section and sections 5382 to 5387 of this title] shall take effect on the first day of the first month which begins 90 days or more after the date of the enactment of this Act [Oct. 22, 1968].''

PART III—CELLAR TREATMENT AND CLASSIFICATION OF WINE

Sec.
5381. Natural wine.
5382. Cellar treatment of natural wine.
5383. Amelioration and sweetening limitations for natural grape wines.
5384. Amelioration and sweetening limitations for natural fruit and berry wines.
5385. Specially sweetened natural wines.
5386. Special natural wines.
5387. Agricultural wines.
5388. Designation of wines.

PRIOR PROVISIONS

A prior part III consisted of sections 5381 to 5388 of this title, prior to the general revision of this chapter by Pub. L. 85–859, title II, Sept. 2, 1958, 72 Stat. 1313.

§ 5381. Natural wine

Natural wine is the product of the juice or must of sound, ripe grapes or other sound, ripe fruit, made with such cellar treatment as may be authorized under section 5382 and containing not more than 21 percent by weight of total solids. Any wine conforming to such definition except for having become substandard by reason of its condition shall be deemed not to be natural wine, unless the condition is corrected.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1383; amended Pub. L. 96–39, title VIII, § 807(a)(48), July 26, 1979, 93 Stat. 288.)

PRIOR PROVISIONS

A prior section 5381, act Aug. 16, 1954, ch. 736, 68A Stat. 668, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1979—Pub. L. 96–39 struck out provisions authorizing removal for distillation of wine deemed not to be natu-

ral wine, destruction of such wine under government supervision, and transfer of such wine to premises in which other than natural wine may be stored or used.

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

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.

§ 5382. Cellar treatment of natural wine

(a) Proper cellar treatment

(1) In general

Proper cellar treatment of natural wine constitutes—

(A) subject to paragraph (2), those practices and procedures in the United States, whether historical or newly developed, of using various methods and materials to correct or stabilize the wine, or the fruit juice from which it is made, so as to produce a finished product acceptable in good commercial practice in accordance with regulations prescribed by the Secretary; and

(B) subject to paragraph (3), in the case of wine produced and imported subject to an international agreement or treaty, those practices and procedures acceptable to the United States under such agreement or treaty.

(2) Recognition of continuing treatment

For purposes of paragraph (1)(A), where a particular treatment has been used in customary commercial practice in the United States, it shall continue to be recognized as a proper cellar treatment in the absence of regulations prescribed by the Secretary finding such treatment not to be proper cellar treatment within the meaning of this subsection.

(3) Certification of practices and procedures for imported wine

(A) In general

In the case of imported wine produced after December 31, 2004, the Secretary shall accept the practices and procedures used to produce such wine, if, at the time of importation—

(i) the Secretary has on file or is provided with a certification from the government of the producing country, accompanied by an affirmed laboratory analysis, that the practices and procedures used to produce the wine constitute proper cellar treatment under paragraph (1)(A),

(ii) the Secretary has on file or is provided with such certification, if any, as may be required by an international agreement or treaty under paragraph (1)(B), or

(iii) in the case of an importer that owns or controls or that has an affiliate that owns or controls a winery operating under a basic permit issued by the Secretary, the importer certifies that the practices and procedures used to produce the wine constitute proper cellar treatment under paragraph (1)(A).

(B) Affiliate defined

For purposes of this paragraph, the term ''affiliate'' has the meaning given such term by section 117(a)(4) of the Federal Alcohol Administration Act (27 U.S.C. 211(a)(4)) and includes a winery's parent or subsidiary or any other entity in which the winery's parent or subsidiary has an ownership interest.

(b) Specifically authorized treatments

The practices and procedures specifically enumerated in this subsection shall be deemed proper cellar treatment for natural wine:

(1) The preparation and use of pure concentrated or unconcentrated juice or must. Concentrated juice or must reduced with water to its original density or to not less than 22 degrees Brix or unconcentrated juice or must reduced with water to not less than 22 degrees Brix shall be deemed to be juice or must, and shall include such amounts of water to clear crushing equipment as regulations prescribed by the Secretary may provide.

(2) The addition to natural wine, or to concentrated or unconcentrated juice or must, from one kind of fruit, of wine spirits (whether or not tax-paid) distilled in the United States from the same kind of fruit; except that (A) the wine, juice, or concentrate shall not have an alcoholic content in excess of 24 percent by volume after the addition of wine spirits, and (B) in the case of still wines, wine spirits may be added in any State only to natural wines produced by fermentation in bonded wine cellars located within the same State.

(3) Amelioration and sweetening of natural grape wines in accordance with section 5383.

(4) Amelioration and sweetening of natural wines from fruits other than grapes in accordance with section 5384.

(5) In the case of effervescent wines, such preparations for refermentation and for dosage as may be acceptable in good commercial practice, but only if the alcoholic content of the finished product does not exceed 14 percent by volume.

(6) The natural darkening of the sugars or other elements in juice, must, or wine due to storage, concentration, heating processes, or natural oxidation.

(7) The blending of natural wines with each other or with heavy-bodied blending wine or with concentrated or unconcentrated juice, whether or not such juice contains wine spirits, if the wines, juice, or wine spirits are from the same kind of fruit.

(8) Such use of acids to correct natural deficiencies and stabilize the wine as may be acceptable in good commercial practice.

(9) The addition—

(A) to natural grape or berry wine of the winemaker's own production, of volatile fruit-flavor concentrate produced from the same kind and variety of grape or berry at a plant qualified under section 5511, or

(B) to natural fruit wine (other than grape or berry) of the winemaker's own production, of volatile fruit-flavor concentrate produced from the same kind of fruit at such a plant,

so long as the proportion of the volatile fruit-flavor concentrate to the wine does not exceed

the proportion of the volatile fruit-flavor concentrate to the original juice or must from which it was produced. The transfer of volatile fruit-flavor concentrate from a plant qualified under section 5511 to a bonded wine cellar and its storage and use in such a cellar shall be under such applications and bonds, and under such other requirements, as may be provided in regulations prescribed by the Secretary.

(c) Other authorized treatment

The Secretary may by regulations prescribe limitations on the preparation and use of clarifying, stabilizing, preserving, fermenting, and corrective methods or materials, to the extent that such preparation or use is not acceptable in good commercial practice.

(d) Use of juice or must from which volatile fruit flavor has been removed

For purposes of this part, juice, concentrated juice, or must processed at a plant qualified under section 5511 may be deemed to be pure juice, concentrated juice, or must even though volatile fruit flavor has been removed if, at a plant qualified under section 5511 or at the bonded wine cellar, there is added to such juice, concentrated juice, or must, or (in the case of a bonded wine cellar) to wine of the winemaker's own production made therefrom, either the identical volatile flavor removed or—

(1) in the case of natural grape or berry wine of the winemaker's own production, an equivalent quantity of volatile fruit-flavor concentrate produced at such a plant and derived from the same kind and variety of grape or berry, or

(2) in the case of natural fruit wine (other than grape or berry wine) of the winemaker's own production, an equivalent quantity of volatile fruit-flavor concentrate produced at such a plant and derived from the same kind of fruit.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1383; amended Pub. L. 88–653, §§ 1, 2, Oct. 13, 1964, 78 Stat. 1085; Pub. L. 89–44, title VIII, § 806(c)(1), June 21, 1965, 79 Stat. 164; Pub. L. 90–619, § 2, Oct. 22, 1968, 82 Stat. 1237; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 108–429, title II, § 2002(a), Dec. 3, 2004, 118 Stat. 2588; Pub. L. 109–432, div. D, title III, § 3007, Dec. 20, 2006, 120 Stat. 3176.)

PRIOR PROVISIONS

A prior section 5382, act Aug. 16, 1954, ch. 736, 68A Stat. 668, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

2006—Subsec. (a)(1)(A). Pub. L. 109–432 substituted ''correct or stabilize'' for ''stabilize''.

2004—Subsec. (a). Pub. L. 108–429 amended heading and text of subsec. (a) generally. Prior to amendment text read as follows: ''Proper cellar treatment of natural wine constitutes those practices and procedures in the United States and elsewhere, whether historical or newly developed, of using various methods and materials to correct or stabilize the wine, or the fruit juice from which it is made, so as to produce a finished product acceptable in good commercial practice. Where a particular treatment has been used in customary commercial practice, it shall continue to be recognized as a proper cellar treatment in the absence of regulations prescribed by the Secretary finding such treatment not to be a proper cellar treatment within the meaning of this subsection.''

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1968—Subsec. (b)(2)(B). Pub. L. 90–619 permitted wine spirits to be added to natural wine produced by fermentation in any bonded wine cellars located within the same State in which the addition is to take place.

1965—Subsec. (b)(2). Pub. L. 89–44 struck out ''made without added sugar or reserved as provided in sections 5383(b) and 5384(b)'' after ''winemaker's own production''.

1964—Subsec. (b)(9). Pub. L. 88–653, § 1, added par. (9). Subsec. (d). Pub. L. 88–653, § 2, added subsec. (d).

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–429, title II, § 2002(b), Dec. 3, 2004, 118 Stat. 2589, provided that: ''The amendment made by this section [amending this section] shall take effect on January 1, 2005.''

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–619 effective on first day of first month which begins 90 days or more after Oct. 22, 1968, see section 6 of Pub. L. 90–619, set out as a note under section 5373 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–44 effective Jan. 1, 1966, see section 806(d)(2) of Pub. L. 89–44, set out as a note under section 5383 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 4 of Pub. L. 88–653 provided that: ''The amendments made by the first section [amending this section] and sections 2 and 3 of this Act [amending this section and section 5511 of this title] shall take effect on the first day of the second month which begins more than 10 days after the date on which this Act is enacted [Oct. 13, 1964].''

§ 5383. Amelioration and sweetening limitations for natural grape wines

(a) Sweetening of grape wines

Any natural grape wine may be sweetened after fermentation and before taxpayment with pure dry sugar or liquid sugar if the total solids content of the finished wine does not exceed 12 percent of the weight of the wine and the alcoholic content of the finished wine after sweetening is not more than 14 percent by volume; except that the use under this subsection of liquid sugar shall be limited so that the resultant volume will not exceed the volume which could result from the maximum authorized use of pure dry sugar only.

(b) High acid wines

(1) Amelioration

Before, during, and after fermentation, ameliorating materials consisting of pure dry sugar or liquid sugar, water, or a combination of sugar and water, may be added to natural grape wines of a winemaker's own production when such wines are made from juice having a natural fixed acid content of more than five parts per thousand (calculated before fermentation and as tartaric acid). Ameliorating material so added shall not reduce the natural fixed acid content of the juice to less than five parts per thousand, nor exceed 35 percent of the volume of juice (calculated exclusive of pulp) and ameliorating material combined.

(2) Sweetening

Any wine produced under this subsection may be sweetened by the producer thereof, after amelioration and fermentation, with pure dry sugar or liquid sugar if the total solids content of the finished wine does not exceed (A) 17 percent by weight if the alcoholic content is more than 14 percent by volume, or (B) 21 percent by weight if the alcoholic content is not more than 14 percent by volume. The use under this paragraph of liquid sugar shall be limited to cases where the resultant volume does not exceed the volume which could result from the maximum authorized use of pure dry sugar only.

(3) Wine spirits

Wine spirits may be added (whether or not wine spirits were previously added) to wine produced under this subsection only if the wine contains not more than 14 percent of alcohol by volume derived from fermentation.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1384; amended Pub. L. 89–44, title VIII, § 806(b)(1), June 21, 1965, 79 Stat. 162; Pub. L. 90–619, § 3, Oct. 22, 1968, 82 Stat. 1237.)

PRIOR PROVISIONS

A prior section 5383, act Aug. 16, 1954, ch. 736, 68A Stat. 669, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–619, § 3(b), substituted ''not more than 14 percent'' for ''less than 14 percent''.

Subsec. (b). Pub. L. 90–619, § 3(a), simplified production procedures and calculations, provided that the limitation on sweetening high acid wine is to be based upon the total solids content of the finished wine, authorized the use of liquid sugar but only to the extent that it did not increase the total volume of the finished wine above what it would be if the maximum authorized use had been made of dry sugar only, and inserted provisions making it clear that wine spirits may be added at more than one stage in the process of wine production.

1965—Pub. L. 89–44 divided subsec. (b) relating to high acid wines into pars. (1) and (2) and par. (2) into subpars. (A) to (E), struck out reserve inventory requirement with respect to the amelioration and sweetening of wines, authorized use of other than pure, dry sugar, and allowed limited use of liquid sugar at appropriate points where use of pure dry sugar had formerly been prescribed.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–619 effective on first day of first month which begins 90 days or more after Oct. 22, 1968, see section 6 of Pub. L. 90–619, set out as a note under section 5373 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 806(d)(2) of Pub. L. 89–44 provided that: ''The amendments made by subsections (b) and (c) [amending this section and sections 5382, 5384, 5385, and 5392] shall take effect on January 1, 1966.''

§ 5384. Amelioration and sweetening limitations for natural fruit and berry wines

(a) In general

To natural wine made from berries or fruit other than grapes, pure dry sugar or liquid sugar may be added to the juice in the fermenter, or to the wine after fermentation; but only if such wine has not more than 14 percent alcohol by volume after complete fermentation, or after complete fermentation and sweetening, and a total solids content not in excess of 21 percent by weight; and except that the use under this subsection of liquid sugar shall be limited so that the resultant volume will not exceed the volume which could result from the maximum authorized use of pure dry sugar only.

(b) Ameliorated fruit and berry wines

(1) Any natural fruit or berry wine (other than grape wine) of a winemaker's own production may, if not made under subsection (a) of this section, be ameliorated to correct high acid content. Ameliorating material calculations and accounting shall be separate for wines made from each different kind of fruit.

(2) Pure dry sugar or liquid sugar may be used in the production of wines under this subsection for the purpose of correcting natural deficiencies, but not to such an extent as would reduce the natural fixed acid in the corrected juice or wine to five parts per thousand. The quantity of sugar so used shall not exceed the quantity which would have been required to adjust the juice, prior to fermentation, to a total solids content of 25 degrees (Brix). Such sugar shall be added prior to the completion of fermentation of the wine. After such addition of the sugar, the wine or juice shall be treated and accounted for as provided in section 5383(b), covering the production of high acid grape wines, except that—

(A) Natural fixed acid shall be calculated as malic acid for apple wine and as citric acid for other fruit and berry wines, instead of tartaric acid;

(B) Juice adjusted with pure dry sugar or liquid sugar as provided in this paragraph shall be treated in the same manner as original natural juice under the provisions of section 5383(b); except that if liquid sugar is used, the volume of water contained therein must be deducted from the volume of ameliorating material authorized;

(C) Wines made under this subsection shall have a total solids content of not more than 21 percent by weight, whether or not wine spirits have been added; and

(D) Wines made exclusively from any fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry) shall be entitled to a volume of ameliorating material not in excess of 60 percent (in lieu of 35 percent).

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1385; amended Pub. L. 89–44, title VIII, § 806(b)(2), (c)(2), (3), June 21, 1965, 79 Stat. 163, 164; Pub. L. 90–619, § 3(b), Oct. 22, 1968, 82 Stat. 1237; Pub. L. 105–34, title XIV, § 1417(a), Aug. 5, 1997, 111 Stat. 1048.)

PRIOR PROVISIONS

A prior section 5384, act Aug. 16, 1954, ch. 736, 68A Stat. 670, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1997—Subsec. (b)(2)(D). Pub. L. 105–34 substituted ''any fruit or berry with a natural fixed acid of 20 parts

per thousand or more (before any correction of such fruit or berry)'' for ''loganberries, currants, or gooseberries,''.

1968—Subsec. (a). Pub. L. 90–619 substituted ''not more than 14 percent'' for ''less than 14 percent''.

1965—Subsec. (a). Pub. L. 89–44, § 806(b)(2)(A), authorized addition of liquid sugar provided resultant volume will not exceed volume which could result from maximum authorized use of pure dry sugar only.

Subsec. (b). Pub. L. 89–44, § 806(c)(3), substituted ''Ameliorated'' for ''Reserve'' in heading.

Subsec. (b)(1). Pub. L. 89–44, § 806(b)(2)(B), struck out references to reserves and reserve inventories.

Subsec. (b)(2). Pub. L. 89–44, § 806(b)(2)(C), amended first sentence by authorizing use of liquid sugar but limiting use of any sugar if it reduced natural fixed acid in corrected juice or wine to five parts per thousand.

Pub. L. 89–44, § 806(c)(2), struck out ''reserved'' after ''covering the production of'' in fourth sentence.

Subsec. (b)(2)(B). Pub. L. 89–44, § 806(b)(2)(D), required that, if liquid sugar is used, the volume of water contained therein be deducted from the volume of ameliorating material authorized.

Subsec. (b)(2)(C). Pub. L. 89–44, § 806(b)(2)(E), substituted ''shall have'' for ''may be withdrawn from reserve inventory with''.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1417(b) of Pub. L. 105–34 provided that: ''The amendment made by this section [amending this section] shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act [Aug. 5, 1997].''

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–619 effective on first day of first month which begins 90 days or more after Oct. 22, 1968, see section 6 of Pub. L. 90–619, set out as a note under section 5373 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–44 effective Jan. 1, 1966, see section 806(d)(2) of Pub. L. 89–44, set out as a note under section 5383 of this title.

§ 5385. Specially sweetened natural wines

(a) Definition

Specially sweetened natural wine is the product made by adding to natural wine of the winemaker's own production a sufficient quantity of pure dry sugar, or juice or concentrated juice from the same kind of fruit, separately or in combination, to produce a finished product having a total solids content in excess of 17 percent by weight and an alcoholic content of not more than 14 percent by volume, and shall include extra sweet kosher wine and similarly heavily sweetened wines.

(b) Cellar treatment

Specially sweetened natural wines may be blended with each other, or with natural wine or heavy bodied blending wine in the further production of specially sweetened natural wine only, if the wines so blended are made from the same kind of fruit. Wines produced under this section may be cellar treated under the provisions of section 5382(a) and (c). Wine spirits may not be added to specially sweetened natural wine.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1386; amended Pub. L. 89–44, title VIII, § 806(c)(4), June 21, 1965, 79 Stat. 164; Pub. L. 90–619, §§ 3(b), 4, Oct. 22, 1968, 82 Stat. 1237.)

PRIOR PROVISIONS

A prior section 5385, act Aug. 16, 1954, ch. 736, 68A Stat. 671, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–619, § 3(b), substituted ''not more than 14 percent'' for ''less than 14 percent''.

Subsec. (b). Pub. L. 90–619, § 4, authorized cellar treatment of specially sweetened natural wines, special natural wines, and agricultural wines.

1965—Subsec. (a). Pub. L. 89–44 substituted ''total solids content in excess of 17'' for ''sugar solids content in excess of 15''.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–619 effective on first day of first month which begins 90 days or more after Oct. 22, 1968, see section 6 of Pub. L. 90–619, set out as a note under section 5373 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–44 effective Jan. 1, 1966, see section 806(d)(2) of Pub. L. 89–44, set out as a note under section 5383 of this title.

§ 5386. Special natural wines

(a) In general

Special natural wines are the products made, pursuant to a formula approved under this section, from a base of natural wine (including heavy-bodied blending wine) exclusively, with the addition, before, during or after fermentation, of natural herbs, spices, fruit juices, aromatics, essences, and other natural flavorings in such quantities or proportions as to enable such products to be distinguished from any natural wine not so treated, and with or without carbon dioxide naturally or artificially added, and with or without the addition, separately or in combination, of pure dry sugar or a solution of pure dry sugar and water, or caramel. No added wine spirits or alcohol or other spirits shall be used in any wine under this section except as may be contained in the natural wine (including heavy-bodied blending wine) used as a base or except as may be necessary in the production of approved essences or similar approved flavorings. The Brix degree of any solution of pure dry sugar and water used may be limited by regulations prescribed by the Secretary in accordance with good commercial practice.

(b) Cellar treatment

Special natural wines may be cellar treated under the provisions of section 5382(a) and (c).

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1386; amended Pub. L. 90–619, § 5, Oct. 22, 1968, 82 Stat. 1237; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5386, act Aug. 16, 1954, ch. 736, 68A Stat. 671, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1968—Subsec. (b). Pub. L. 90–619 inserted reference to subsec. (a) of section 5382.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–619 effective on first day of first month which begins 90 days or more after Oct. 22, 1968, see section 6 of Pub. L. 90–619, set out as a note under section 5373 of this title.

§ 5387. Agricultural wines

(a) In general

Wines made from agricultural products other than the juice of fruit shall be made in accordance with good commercial practice as may be prescribed by the Secretary by regulations. Wines made in accordance with such regulations shall be classed as ''standard agricultural wines''. Wines made under this section may be cellar treated under the provisions of section 5382(a) and (c).

(b) Limitations

No wine spirits may be added to wines produced under this section, nor shall any coloring material or herbs or other flavoring material (except hops in the case of honey wine) be used in their production.

(c) Restriction on blending

Wines from different agricultural commodities shall not be blended together.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1386; amended Pub. L. 90–619, § 5, Oct. 22, 1968, 82 Stat. 1237; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5387, act Aug. 16, 1954, ch. 736, 68A Stat. 671, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1968—Subsec. (a). Pub. L. 90–619 inserted reference to subsec. (a) of section 5382.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–619 effective on first day of first month which begins 90 days or more after Oct. 22, 1968, see section 6 of Pub. L. 90–619, set out as a note under section 5373 of this title.

§ 5388. Designation of wines

(a) Standard wines

Standard wines may be removed from premises subject to the provisions of this subchapter and be marked, transported, and sold under their proper designation as to kind and origin, or, if there is no such designation known to the trade or consumers, then under a truthful and adequate statement of composition.

(b) Other wines

Wines other than standard wines may be removed for consumption or sale and be marked, transported, or sold only under such designation as to kind and origin as adequately describes the true composition of such products and as adequately distinguish them from standard wines, as regulations prescribed by the Secretary shall provide.

(c) Use of semi-generic designations

(1) In general

Semi-generic designations may be used to designate wines of an origin other than that indicated by such name only if—

(A) there appears in direct conjunction therewith an appropriate appellation of origin disclosing the true place of origin of the wine, and

(B) the wine so designated conforms to the standard of identity, if any, for such wine contained in the regulations under this section or, if there is no such standard, to the trade understanding of such class or type.

(2) Determination of whether name is semi-generic

(A) In general

Except as provided in subparagraph (B), a name of geographic significance, which is also the designation of a class or type of wine, shall be deemed to have become semi-generic only if so found by the Secretary.

(B) Certain names treated as semi-generic

The following names shall be treated as semi-generic: Angelica, Burgundy, Claret, Chablis, Champagne, Chianti, Malaga, Marsala, Madeira, Moselle, Port, Rhine Wine or Hock, Sauterne, Haut Sauterne, Sherry, Tokay.

(3) Special rule for use of certain semi-generic designations

(A) In general

In the case of any wine to which this paragraph applies—

(i) paragraph (1) shall not apply,

(ii) in the case of wine of the European Community, designations referred to in subparagraph (C)(i) may be used for such wine only if the requirement of subparagraph (B)(ii) is met, and

(iii) in the case any other wine bearing a brand name, or brand name and fanciful name, semi-generic designations may be used for such wine only if the requirements of clauses (i), (ii), and (iii) of subparagraph (B) are met.

(B) Requirements

(i) The requirement of this clause is met if there appears in direct conjunction with the semi-generic designation an appropriate appellation of origin disclosing the origin of the wine.

(ii) The requirement of this clause is met if the wine conforms to the standard of identity, if any, for such wine contained in the regulations under this section or, if there is no such standard, to the trade understanding of such class or type.

(iii) The requirement of this clause is met if the person, or its successor in interest, using the semi-generic designation held a Certificate of Label Approval or Certificate of Exemption from Label Approval issued by the Secretary for a wine label bearing such brand name, or brand name and fanciful name, before March 10, 2006, on which such semi-generic designation appeared.

(C) Wines to which paragraph applies

(i) In general

Except as provided in clause (ii), this paragraph shall apply to any grape wine which is designated as Burgundy, Claret, Chablis, Champagne, Chianti, Malaga, Marsala, Madeira, Moselle, Port, Retsina, Rhine Wine or Hock, Sauterne, Haut Sauterne, Sherry, or Tokay.

(ii) Exception

This paragraph shall not apply to wine which—

(I) contains less than 7 percent or more than 24 percent alcohol by volume,

(II) is intended for sale outside the United States, or

(III) does not bear a brand name.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1387; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105–34, title IX, § 910(a), Aug. 5, 1997, 111 Stat. 877; Pub. L. 109–432, div. A, title IV, § 422(a), Dec. 20, 2006, 120 Stat. 2972.)

PRIOR PROVISIONS

A prior section 5388, act Aug. 16, 1954, ch. 736, 68A Stat. 672, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

2006—Subsec. (c)(3). Pub. L. 109–432 added par. (3).

1997—Subsec. (c). Pub. L. 105–34 added subsec. (c).

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–432, div. A, title IV, § 422(b), Dec. 20, 2006, 120 Stat. 2973, provided that: ''The amendments made by this section [amending this section] shall apply to wine imported or bottled in the United States on or after the date of enactment of this Act [Dec. 20, 2006].''

EFFECTIVE DATE OF 1997 AMENDMENT

Section 910(b) of Pub. L. 105–34 provided that: ''The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 5, 1997].''

PART IV—GENERAL

Sec.
5391. Exemption from distilled spirits taxes.
5392. Definitions.

PRIOR PROVISIONS

A prior part IV consisted of sections 5391 and 5392 of this title, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1979—Pub. L. 96–39, title VIII, § 807(b)(8), July 26, 1979, 93 Stat. 290, substituted ''Exemption from distilled spirits taxes'' for ''Exemption from rectifying and spirits taxes'' in item 5391.

§ 5391. Exemption from distilled spirits taxes

Notwithstanding any other provision of law, the tax imposed by section 5001 on distilled spirits shall not, except as provided in this subchapter, be assessed, levied, or collected from the proprietor of any bonded wine cellar with respect to his use of wine spirits in wine production, in such premises; except that, whenever wine or wine spirits are used in violation of this subchapter, the applicable tax imposed by section 5001 shall be collected unless the proprietor satisfactorily shows that such wine or wine spirits were not knowingly used in violation of law.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1387; amended Pub. L. 96–39, title VIII, § 807(a)(49), July 26, 1979, 93 Stat. 288.)

PRIOR PROVISIONS

A prior section 5391, act Aug. 16, 1954, ch. 736, 68A Stat. 672, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1979—Pub. L. 96–39 substituted ''distilled'' for ''rectifying and'' in section catchline and struck out provisions relating to exemption from taxes imposed on rectified spirits and wines and the status of any proprietor of a bonded wine cellar as a rectifier of such spirits in text.

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

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.

§ 5392. Definitions

(a) Standard wine

For purposes of this subchapter the term ''standard wine'' means natural wine, specially sweetened natural wine, special natural wine, and standard agricultural wine, produced in accordance with the provisions of sections 5381, 5385, 5386, and 5387, respectively.

(b) Heavy bodied blending wine

For purposes of this subchapter the term ''heavy bodied blending wine'' means wine made from fruit without added sugar, and with or without added wine spirits, and conforming to the definition of natural wine in all respects except as to maximum total solids content.

(c) Pure sugar

For purposes of this subchapter the term ''pure sugar'' means pure refined sugar, suitable for human consumption, having a dextrose equivalent of not less than 95 percent on a dry basis, and produced from cane, beets, or fruit, or from grain or other sources of starch. Invert sugar syrup produced from such pure sugar by recognized methods of inversion may be used to prepare any sugar syrup, or solution of water and pure sugar, authorized in this subchapter.

(d) Total solids

For purposes of this subchapter the term ''total solids'', in the case of wine, means the degrees Brix of the dealcoholized wine.

(e) Same kind of fruit

For purposes of this subchapter the term ''same kind of fruit'' includes, in the case of grapes, all of the several species and varieties of

grapes. In the case of fruits other than grapes, this term includes all of the several species and varieties of any given kind; except that this shall not preclude a more precise identification of the composition of the product for the purpose of its designation.

(f) Own production

For purposes of this subchapter the term ''own production'', when used with reference to wine in a bonded wine cellar, means wine produced by fermentation in the same bonded wine cellar, whether or not produced by a predecessor in interest at such bonded wine cellar. This term may also include, under regulations, wine produced by fermentation in bonded wine cellars owned or controlled by the same or affiliated persons or firms when located within the same State; the term ''affiliated'' shall be deemed to include any one or more bonded wine cellar proprietors associated as members of any farm cooperative, or any one or more bonded wine cellar proprietors affiliated within the meaning of section 17(a)(5) of the Federal Alcohol Administration Act, as amended (27 U.S.C. 211).[1]

(g) Liquid sugar

For purposes of this subchapter the term ''liquid sugar'' means a substantially colorless pure sugar and water solution containing not less than 60 percent pure sugar by weight (60 degrees Brix.)

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1387; amended Pub. L. 89–44, title VIII, § 806(b)(3), June 21, 1965, 79 Stat. 163; Pub. L. 94–455, title XIX, § 1905(a)(21), Oct. 4, 1976, 90 Stat. 1820.)

REFERENCES IN TEXT

Section 17(a)(5) of the Federal Alcohol Administration Act, as amended (27 U.S.C. 211), referred to in subsec. (f), was renumbered section 117(a)(5) of the Federal Alcohol Administration Act by Pub. L. 100–690, title VIII, § 8001(a)(2), Nov. 18, 1988, 102 Stat. 4517, and is classified to section 211(a)(5) of Title 27, Intoxicating Liquors.

PRIOR PROVISIONS

A prior section 5392, act Aug. 16, 1954, ch. 736, 68A Stat. 672, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Subsec. (f). Pub. L. 94–455 struck out ''49 Stat. 990;'' before ''27 U.S.C. 211''.

1965—Subsec. (c). Pub. L. 89–44, § 806(b)(3)(A), added fruit, grain, or other sources of starch to cane and beets as sources of ''pure sugar''.

Subsec. (g). Pub. L. 89–44, § 806(b)(3)(B), added subsec. (g).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by 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 OF 1965 AMENDMENT

Amendment by Pub. L. 89–44 effective Jan. 1, 1966, see section 806(d)(2) of Pub. L. 89–44, set out as a note under section 5383 of this title.

[1] See References in Text note below.

Subchapter G—Breweries

Part
I. Establishment.
II. Operations.

PRIOR PROVISIONS

A prior subchapter G consisted of parts I and II, contained sections 5401 to 5403 and 5411 to 5416, respectively, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

PART I—ESTABLISHMENT

Sec.
5401. Qualifying documents.
5402. Definitions.
5403. Cross references.

PRIOR PROVISIONS

A prior part I consisted of sections 5401 to 5403 of this title, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

§ 5401. Qualifying documents

(a) Notice

Every brewer shall, before commencing or continuing business, file with the officer designated for that purpose by the Secretary a notice in writing, in such form and containing such information as the Secretary shall by regulations prescribe as necessary to protect and insure collection of the revenue.

(b) Bonds

Every brewer, on filing notice as provided by subsection (a) of his intention to commence business, shall execute a bond to the United States in such reasonable penal sum as the Secretary shall by regulation prescribe as necessary to protect and insure collection of the revenue. The bond shall be conditioned (1) that the brewer shall pay, or cause to be paid, as herein provided, the tax required by law on all beer, including all beer removed for transfer to the brewery from other breweries owned by him as provided in section 5414; (2) that he shall pay or cause to be paid the tax on all beer removed free of tax for export as provided in section 5053(a), which beer is not exported or returned to the brewery; and (3) that he shall in all respects faithfully comply, without fraud or evasion, with all requirements of law relating to the production and sale of any beer aforesaid. Once in every 4 years, or whenever required so to do by the Secretary, the brewer shall execute a new bond or a continuation certificate, in the penal sum prescribed in pursuance of this section, and conditioned as above provided, which bond or continuation certificate shall be in lieu of any former bond or bonds, or former continuation certificate or certificates, of such brewer in respect to all liabilities accruing after its approval. If the contract of surety between the brewer and the surety on an expiring bond or continuation certificate is continued in force between the parties for a succeeding period of not less than 4 years, the brewer may submit, in lieu of a new bond, a certificate executed, under penalties of perjury, by the brewer and the surety attesting to continuation of the bond, which certificate shall constitute a bond subject to all provisions of law applicable to bonds given pursuant to this section.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1388; amended Pub. L. 91–673, § 3(a), Jan. 12, 1971, 84 Stat. 2056; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5401, act Aug. 16, 1954, ch. 736, 68A Stat. 674, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1971—Subsec. (b). Pub. L. 91–673 permitted bonding requirement to be satisfied by continuation of an existing bond, with such continuation being subject to Government approval in the same manner as a new bond and required that the continuation certificate be executed by both the brewer and the surety, under penalties of perjury.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91–673 effective on first day of first calendar month which begins more than 90 days after Jan. 12, 1971, see section 5 of Pub. L. 91–673, set out as a note under section 5056 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.

§ 5402. Definitions

(a) Brewery

The brewery shall consist of the land and buildings described in the brewer's notice. The continuity of the brewery must be unbroken except where separated by public passageways, streets, highways, waterways, or carrier rights-of-way, or partitions; and if parts of the brewery are so separated they must abut on the dividing medium and be adjacent to each other. Notwithstanding the preceding sentence, facilities under the control of the brewer for case packing, loading, or storing which are located within reasonable proximity to the brewery packaging facilities may be approved by the Secretary as a part of the brewery if the revenue will not be jeopardized thereby.

(b) Brewer

For definition of brewer, see section 5052(d).

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1389; amended Pub. L. 91–673, § 3(b), Jan. 12, 1971, 84 Stat. 2057; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 109–59, title XI, § 11125(b)(17), Aug. 10, 2005, 119 Stat. 1956.)

PRIOR PROVISIONS

A prior section 5402, act Aug. 16, 1954, ch. 736, 68A Stat. 674, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

2005—Subsec. (b). Pub. L. 109–59 substituted ''section 5052(d)'' for ''section 5092''.

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

1971—Subsec. (a). Pub. L. 91–673 inserted proviso to definition of ''Brewery'' that the continuity of the brewery must be unbroken except where separated by public passageways, streets, highways, waterways, or carrier rights-of-way, or partitions, with the exception that the Secretary approve facilities under the control of the brewer for case packing, loading, or storing, which are located within reasonable proximity to the brewery as a part of the brewery if the revenue will not be jeopardized thereby.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109–59 effective July 1, 2008, but inapplicable to taxes imposed for periods before such date, see section 11125(c) of Pub. L. 109–59, set out as a note under section 5002 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91–673 effective on first day of first calendar month which begins more than 90 days after Jan. 12, 1971, see section 5 of Pub. L. 91–673, set out as a note under section 5056 of this title.

§ 5403. Cross references

(1) For authority of Secretary to disapprove brewers' bonds, see section 5551.

(2) For authority of Secretary to require the installation and use of meters, tanks, and other apparatus, see section 5552.

(3) For deposit of United States bonds or notes in lieu of sureties, see section 9303 of title 31, United States Code.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1389; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97–258, § 3(f)(3), Sept. 13, 1982, 96 Stat. 1064.)

PRIOR PROVISIONS

A prior section 5403, act Aug. 16, 1954, ch. 736, 68A Stat. 674, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1982—Par. (3). Pub. L. 97–258 substituted ''section 9303 of title 31, United States Code'' for ''6 U.S.C. 15''.

1976—Par. (1). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

PART II—OPERATIONS

Sec.
5411. Use of brewery.
5412. Removal of beer in containers or by pipeline.
5413. Brewers procuring beer from other brewers.
5414. Removals from one brewery to another belonging to the same brewer.
5415. Records and returns.
5416. Definitions of package and packaging.
5417. Pilot brewing plants.
5418. Beer imported in bulk.

PRIOR PROVISIONS

A prior part II consisted of sections 5411 to 5416, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1997—Pub. L. 105–34, title XIV, § 1421(b), Aug. 5, 1997, 111 Stat. 1049, added item 5418.

1971—Pub. L. 91–673, § 4(b), Jan. 12, 1971, 84 Stat. 2058, substituted ''Definitions of package and packaging'' for ''Definitions of bottle and bottling'' in item 5416 and added item 5417.

§ 5411. Use of brewery

The brewery shall be used under regulations prescribed by the Secretary only for the purpose of producing, packaging, and storing beer, cereal

beverages containing less than one-half of 1 percent of alcohol by volume, vitamins, ice, malt, malt sirup, and other byproducts and of soft drinks; for the purpose of processing spent grain, carbon dioxide, and yeast; and for such other purposes as the Secretary by regulation may find will not jeopardize the revenue.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1389; amended Pub. L. 91–673, § 3(c), Jan. 12, 1971, 84 Stat. 2057; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5411, act Aug. 16, 1954, ch. 736, 68A Stat. 675, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1971—Pub. L. 91–673 struck out requirement of separate facilities for bottling of beer and cereal beverages and permitted use of brewery for packaging and storing beer and other cereal beverages.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91–673 effective on first day of first calendar month which begins more than 90 days after Jan. 12, 1971, see section 5 of Pub. L. 91–673, set out as a note under section 5056 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.

§ 5412. Removal of beer in containers or by pipeline

Beer may be removed from the brewery for consumption or sale only in hogsheads, packages, and similar containers, marked, branded, or labeled in such manner as the Secretary may by regulation require, except that beer may be removed from the brewery by pipeline to contiguous distilled spirits plants under section 5222.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1389; amended Pub. L. 91–673, § 3(d), Jan. 12, 1971, 84 Stat. 2057; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5412, act Aug. 16, 1954, ch. 736, 68A Stat. 675, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

1971—Pub. L. 91–673 substituted ''packages,'' for ''barrels, kegs, bottles,''.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91–673 effective on first day of first calendar month which begins more than 90 days after Jan. 12, 1971, see section 5 of Pub. L. 91–673, set out as a note under section 5056 of this title.

§ 5413. Brewers procuring beer from other brewers

A brewer, under such regulations as the Secretary shall prescribe, may obtain beer in his own hogsheads, barrels, and kegs, marked with his name and address, from another brewer, with taxpayment thereof to be by the producer in the manner prescribed by section 5054.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1389; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5413, act Aug. 16, 1954, ch. 736, 68A Stat. 675, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

§ 5414. Removals from one brewery to another belonging to the same brewer

Beer may be removed from one brewery to another brewery belonging to the same brewer, without payment of tax, and may be mingled with beer at the receiving brewery, subject to such conditions, including payment of the tax, and in such containers, as the Secretary by regulations shall prescribe. The removal from one brewery to another brewery belonging to the same brewer shall be deemed to include any removal from a brewery owned by one corporation to a brewery owned by another corporation when (1) one such corporation owns the controlling interest in the other such corporation, or (2) the controlling interest in each such corporation is owned by the same person or persons.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1389; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5414, act Aug. 16, 1954, ch. 736, 68A Stat. 675, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

§ 5415. Records and returns

(a) Records

Every brewer shall keep records, in such form and containing such information as the Secretary shall prescribe by regulations as necessary for protection of the revenue. These records shall be preserved by the person required to keep such records for such period as the Secretary shall by regulations prescribe, and shall be available during business hours for examination and taking of abstracts therefrom by any internal revenue officer.

(b) Returns

Every brewer shall make true and accurate returns of his operations and transactions in the form, at the times, and for such periods as the Secretary shall by regulation prescribe.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1390; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5415, act Aug. 16, 1954, ch. 736, 68A Stat. 675, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Subsecs. (a), (b). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

§ 5416. Definitions of package and packaging

For purposes of this subchapter, the term ''package'' means a bottle, can, keg, barrel, or other original consumer container, and the term ''packaging'' means the filling of any package.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1390; amended Pub. L. 91–673, § 3(e), Jan. 12, 1971, 84 Stat. 2057.)

PRIOR PROVISIONS

A prior section 5416, act Aug. 16, 1954, ch. 736, 68A Stat. 676, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1971—Pub. L. 91–673 substituted definitions of package and packaging for definitions of bottle and bottling.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 91–673 effective on first day of first calendar month which begins more than 90 days after Jan. 12, 1971, see section 5 of Pub. L. 91–673, set out as a note under section 5056 of this title.

§ 5417. Pilot brewing plants

Under such regulations as the Secretary may prescribe, and on the filing of such bonds and applications as he may require, pilot brewing plants may, at the discretion of the Secretary be established and operated off the brewery premises for research, analytical, experimental, or development purposes with regard to beer or brewery operations. Nothing in this section shall be construed as authority to waive the filing of any bond or the payment of any tax provided for in this chapter.

(Added Pub. L. 91–673, § 4(a), Jan. 12, 1971, 84 Stat. 2057; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE

Section effective on first day of first calendar month which begins more than 90 days after Jan. 12, 1971, see section 5 of Pub. L. 91–673, set out as an Effective Date of 1971 Amendment note under section 5056 of this title.

§ 5418. Beer imported in bulk

Beer imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a brewery without payment of the internal revenue tax imposed on such beer. The proprietor of a brewery to which such beer is transferred shall become liable for the tax on the beer withdrawn from customs custody under this section upon release of the beer from customs custody, and the importer, or the person bringing such beer into the United States, shall thereupon be relieved of the liability for such tax.

(Added Pub. L. 105–34, title XIV, § 1421(a), Aug. 5, 1997, 111 Stat. 1049.)

EFFECTIVE DATE

Section 1421(c) of Pub. L. 105–34 provided that: ''The amendments made by this section [enacting this section] shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act [Aug. 5, 1997].''

Subchapter H—Miscellaneous Plants and Warehouses

Part
I. Vinegar plants.
II. Volatile fruit-flavor concentrate plants.
[III. Repealed.]

PRIOR PROVISIONS

A prior subchapter H consisted of parts I to III, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1979—Pub. L. 96–39, title VIII, § 807(b)(9), July 26, 1979, 93 Stat. 291, struck out item relating to Part III ''Manufacturing bonded warehouses'' in table of Parts comprising Subchapter H.

PART I—VINEGAR PLANTS

Sec.
5501. Establishment.
5502. Qualification.
5503. Construction and equipment.
5504. Operation.
5505. Applicability of provisions of this chapter.

PRIOR PROVISIONS

A prior part I consisted of sections 5501 and 5502, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

§ 5501. Establishment

Plants for the production of vinegar by the vaporizing process, where distilled spirits of not more than 15 percent of alcohol by volume are to be produced exclusively for use in the manufacture of vinegar on the premises, may be established under this part.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1390.)

PRIOR PROVISIONS

A prior section 5501, act Aug. 16, 1954, ch. 736, 68A Stat. 677, made a cross reference to provisions pertaining to establishment and operation of vinegar factories, prior to the general revision of this chapter by Pub. L. 85–859.

Provisions similar to those comprising this section were contained in prior section 5216(a)(1), act Aug. 16, 1954, ch. 736, 68A Stat. 640, prior to the general revision of this chapter by Pub. L. 85–859.

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.

§ 5502. Qualification

(a) Requirements

Every person, before commencing the business of manufacturing vinegar by the vaporizing

process, and at such other times as the Secretary may by regulations prescribe, shall make application to the Secretary for the registration of his plant and receive permission to operate. No application required under this section shall be approved until the applicant has complied with all requirements of law, and regulations prescribed by the Secretary, in relation to such business. With respect to any change in such business after approval of an application, the Secretary may by regulations authorize the filing of written notice of such change or require the filing of an application to make such change.

(b) Form of application

The application required by subsection (a) shall be in such form and contain such information as the Secretary shall by regulations prescribe to enable him to determine the identity of the applicant, the location and extent of the premises, the type of operations to be conducted on such premises, and whether the operations will be in conformity with law and regulations.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1390; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5502, act Aug. 16, 1954, ch. 736, 68A Stat. 677, related to distilled vinegar, prior to the general revision of this chapter by Pub. L. 85–859.

Provisions similar to those comprising subsec. (a) of this section were contained in prior section 5216(a)(1), act Aug. 16, 1954, ch. 736, 68A Stat. 640, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Subsecs. (a), (b). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

§ 5503. Construction and equipment

Plants established under this part for the manufacture of vinegar by the vaporizing process shall be constructed and equipped in accordance with such regulations as the Secretary shall prescribe.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1391; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior sections 5216(a)(1) and 5552, act Aug. 16, 1954, ch. 736, 68A Stat. 640, 680, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

§ 5504. Operation

(a) General

Any manufacturer of vinegar qualified under this part may, under such regulations as the Secretary shall prescribe, separate by a vaporizing process the distilled spirits from the mash produced by him, and condense the vapor by introducing it into the water or other liquid used in making vinegar in his plant.

(b) Removals

No person shall remove, or cause to be removed, from any plant established under this part any vinegar or other fluid or material containing a greater proportion than 2 percent of proof spirits.

(c) Records

Every person manufacturing vinegar by the vaporizing process shall keep such records and file such reports as the Secretary shall by regulations prescribe of the kind and quantity of materials received on his premises and fermented or mashed, the quantity of low wines produced, the quantity of such low wines used in the manufacture of vinegar, the quantity of vinegar produced, the quantity of vinegar removed from the premises, and such other information as may by regulations be required. Such records, and a copy of such reports, shall be preserved as regulations shall prescribe, and shall be kept available for inspection by any internal revenue officer during business hours.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1391; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

Provisions similar to those comprising subsecs. (a) and (b) of this section were contained in prior section 5216(a)(1)(2), act Aug. 16, 1954, ch. 736, 68A Stat. 640, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Subsecs. (a), (c). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

§ 5505. Applicability of provisions of this chapter

(a) Tax

The taxes imposed by subchapter A shall be applicable to any distilled spirits produced in violation of section 5501 or removed in violation of section 5504(b).

(b) Prohibited premises

Plants established under this part shall not be located on any premises where distilling is prohibited under section 5601(a)(6).

(c) Entry and examination of premises

The provisions of section 5203(b), (c), and (d), relating to right of entry and examination, furnishing facilities and assistance, and authority to break up grounds or walls, shall be applicable to all premises established under this part, and to all proprietors thereof, and their workmen or other persons employed by them.

(d) Registration of stills

Stills on the premises of plants established under this part shall be registered as provided in section 5179.

(e) Installation of meters, tanks, and other apparatus

The provisions of section 5552 relating to the installation of meters, tanks, and other apparatus shall be applicable to plants established under this part.

(f) Assignment of internal revenue officers

The provisions of section 5553(a) relating to the assignment of internal revenue officers shall be applicable to plants established under this part.

(g) Authority to waive records, statements, and returns

The provisions of section 5555(b) relating to the authority of the Secretary to waive records, statements, and returns shall be applicable to records, statements, or returns required by this part.

(h) Regulations

The provisions of section 5556 relating to the prescribing of regulations shall be applicable to this part.

(i) Penalties

The penalties and forfeitures provided in sections 5601(a)(1), (6), and (12), 5603, 5615(1) and (4), 5686, and 5687 shall be applicable to this part.

(j) Other provisions

This chapter (other than this part and the provisions referred to in subsection (a), (b), (c), (d), (e), (f), (g), (h), (i) shall not be applicable with respect to plants established or operations conducted under this part.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1391; amended Pub. L. 94–455, title XIX, § 1905(b)(6)(E), Oct. 4, 1976, 90 Stat. 1823.)

PRIOR PROVISIONS

Provisions similar to those comprising subsecs. (a) to (i) of this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85–859, as follows:

Present subsecs.:	*Prior sections*
(a)	5216(a)(1).
(b)	5171.
(c)	5216(a)(3).
(d)	5174.
(e)	5552.
(f)	5553(a).
(g)	5555(b).
(h)	5556.
(i)	5601, 5607, 5608, 5686(b).

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 627, 630, 640, 680, 681, 683–685, 700.

AMENDMENTS

1976—Subsec. (i). Pub. L. 94–455 struck out ''5601(b)(1),'' after ''5601(a)(1), (6), and (12),''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by 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.

PART II—VOLATILE FRUIT-FLAVOR CONCENTRATE PLANTS

Sec.
5511. Establishment and operation.
5512. Control of products after manufacture.

PRIOR PROVISIONS

A prior part II consisted of sections 5511 and 5512, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

§ 5511. Establishment and operation

This chapter (other than sections 5178(a)(2)(C), 5179, 5203(b), (c), and (d), and 5552) shall not be applicable with respect to the manufacture, by any process which includes evaporations from the mash or juice of any fruit, of any volatile fruit-flavor concentrate if—

(1) such concentrate, and the mash or juice from which it is produced, contains no more alcohol than is reasonably unavoidable in the manufacture of such concentrate; and

(2) such concentrate is rendered unfit for use as a beverage before removal from the place of manufacture, or (in the case of a concentrate which does not exceed 24 percent alcohol by volume) such concentrate is transferred to a bonded wine cellar for use in production of natural wine as provided in section 5382; and

(3) the manufacturer thereof makes such application, keeps such records, renders such reports, files such bonds, and complies with such other requirements with respect to the production, removal, sale, transportation, and use of such concentrate and of the mash or juice from which such concentrate is produced, as the Secretary may by regulations prescribe as necessary for the protection of the revenue.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1392; amended Pub. L. 88–653, § 3, Oct. 13, 1964, 78 Stat. 1085; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5511, act Aug. 16, 1954, ch. 736, 68A Stat. 677, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Par. (3). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

1964—Par. (2). Pub. L. 88–653 inserted ''or (in the case of a concentrate which does not exceed 24 percent alcohol by volume) such concentrate is transferred to a bonded wine cellar for use in production of natural wine as provided in section 5382''.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–653 effective on first day of second month which begins more than 10 days after Oct. 13, 1964, see section 4 of Pub. L. 88–653, set out as a note under section 5383 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.

§ 5512. Control of products after manufacture

For applicability of all provisions of this chapter pertaining to distilled spirits and wines, including those requiring payment of tax, to volatile fruit-flavor concentrates sold, transported, or used in violation of law or regulations, see section 5001(a)(7).[1]

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1392.)

REFERENCES IN TEXT

Section 5001(a)(7), referred to in text, was redesignated section 5001(a)(6) by Pub. L. 103–465, title I, § 136(a), Dec. 8, 1994, 108 Stat. 4841.

PRIOR PROVISIONS

A prior section 5512, act Aug. 16, 1954, ch. 736, 68A Stat. 677, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

[1] See References in Text note below.

[PART III—REPEALED]

[§§ 5521 to 5523. Repealed. Pub. L. 96–39, title VIII, § 807(a)(50), July 26, 1979, 93 Stat. 288]

Section 5521, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1392; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, related to establishment and operation of manufacturing bonded warehouses.

A prior section 5521, act Aug. 16, 1954, ch. 736, 68A Stat. 678, related to establishment and operation of manufacturing bonded warehouses, prior to the general revision of this chapter by Pub. L. 85–859.

Section 5522, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1393; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, related to withdrawal of distilled spirits to manufacturing bonded warehouses.

A prior section 5522, act Aug. 16, 1954, ch. 736, 68A Stat. 679, related to withdrawal of distilled spirits to manufacturing bonded warehouses, prior to general revision of this chapter by Pub. L. 85–859. See sections 5008(f)(2) and 5214(a) of this title.

Section 5523, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1394; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, made special provision for distilled spirits and wines rectified in manufacturing bonded warehouses.

A prior section 5523, act Aug. 16, 1954, ch. 736, 68A Stat. 679, made special provision for distilled spirits and wines rectified in manufacturing bonded warehouses, prior to general revision of this chapter by Pub. L. 85–859.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1980, see section 810 of Pub. L. 96–39, set out as an Effective Date of 1979 Amendment note under section 5001 of this title.

Subchapter I—Miscellaneous General Provisions

Sec.
5551. General provisions relating to bonds.
5552. Installation of meters, tanks, and other apparatus.
5553. Supervision of premises and operations.
5554. Pilot operations.
5555. Records, statements, and returns.
5556. Regulations.
5557. Officers and agents authorized to investigate, issue search warrants, and prosecute for violations.
5558. Authority of enforcement officers.
5559. Determinations.
5560. Other provisions applicable.
5561. Exemptions to meet the requirements of the national defense.
5562. Exemptions from certain requirements in cases of disaster.

PRIOR PROVISIONS

A prior subchapter I consisted of sections 5551 to 5557, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

§ 5551. General provisions relating to bonds

(a) Approval as condition to commencing business

No individual, firm, partnership, corporation, or association, intending to commence or to continue the business of a distiller, warehouseman, processor, brewer, or winemaker, shall commence or continue the business of a distiller, warehouseman, processor, brewer, or winemaker until all bonds in respect of such a business, required by any provision of law, have been approved by the Secretary of the Treasury or the officer designated by him.

(b) Disapproval

The Secretary of the Treasury or any officer designated by him may disapprove any such bond or bonds if the individual, firm, partnership, or corporation, or association giving such bond or bonds, or owning, controlling, or actively participating in the management of the business of the individual, firm, partnership, corporation, or association giving such bond or bonds, shall have been previously convicted, in a court of competent jurisdiction, of—

(1) any fraudulent noncompliance with any provision of any law of the United States, if such provision related to internal revenue or customs taxation of distilled spirits, wines, or beer, or if such an offense shall have been compromised with the individual, firm, partnership, corporation, or association on payment of penalties or otherwise, or

(2) any felony under a law of any State, or the District of Columbia, or the United States, prohibiting the manufacture, sale, importation, or transportation of distilled spirits, wine, beer, or other intoxicating liquor.

(c) Appeal from disapproval

In case the disapproval is by an officer designated by the Secretary of the Treasury to approve or disapprove such bonds, the individual, firm, partnership, corporation, or association giving the bond may appeal from such disapproval to the Secretary of the Treasury or an officer designated by him to hear such appeals, and the disapproval of the bond by the Secretary of the Treasury or officer designated to hear such appeals shall be final.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1394; amended Pub. L. 94–455, title XIX, §§ 1905(c)(5), 1906(b)(13)(B), Oct. 4, 1976, 90 Stat. 1823, 1834; Pub. L. 96–39, title VIII, § 807(a)(51), July 26, 1979, 93 Stat. 288.)

PRIOR PROVISIONS

A prior section 5551, act Aug. 16, 1954, ch. 736, 68A Stat. 680, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

Provisions similar to those comprising subsec. (c) of this section were contained in prior section 5177(c), act Aug. 16, 1954, ch. 736, 68A Stat. 630, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96–39 substituted ''warehouseman, processor'' for ''bonded warehouseman, rectifier'' in two places.

1976—Subsec. (a). Pub. L. 94–455, § 1906(b)(13)(B), substituted ''Secretary of the Treasury'' for ''Secretary''.

Subsec. (b). Pub. L. 94–455, §§ 1905(c)(5), 1906(b)(13)(B), substituted ''Secretary of the Treasury'' for ''Secretary'' in provisions preceding par. (1) and struck out ''Territory, or'' after ''State,'' in par. (2).

Subsec. (c). Pub. L. 94–455, § 1906(b)(13)(B), substituted ''Secretary of the Treasury'' for ''Secretary''.

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(c)(5) 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.

§ 5552. Installation of meters, tanks, and other apparatus

The Secretary is authorized to require at distilled spirits plants, breweries, and at any other premises established pursuant to this chapter as in his judgment may be deemed advisable, the installation of meters, tanks, pipes, or any other apparatus for the purpose of protecting the revenue, and such meters, tanks, and pipes and all necessary labor incident thereto shall be at the expense of the person on whose premises the installation is required. Any such person refusing or neglecting to install such apparatus when so required by the Secretary shall not be permitted to conduct business on such premises.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1395; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5552, act Aug. 16, 1954, ch. 736, 68A Stat. 680, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

For application to vinegar plants of provisions of prior section 5552 relating to installation of meters, tanks, and other apparatus, see also sections 5503 and 5505(e) of this title.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

§ 5553. Supervision of premises and operations

(a) Assignment of internal revenue officers

The Secretary is authorized to assign to any premises established under the provisions of this chapter such number of internal revenue officers as may be deemed necessary.

(b) Functions of internal revenue officer

When used in this chapter, the term ''internal revenue officer assigned to the premises'' means the internal revenue officer assigned by the Secretary to duties at premises established and operated under the provisions of this chapter.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1395; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5553, act Aug. 16, 1954, ch. 736, 68A Stat. 681, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

For application to vinegar plants of provisions of prior section 5553(a) relating to assignment of storekeeper-gaugers, see also section 5505(f) of this title.

AMENDMENTS

1976—Subsecs. (a), (b). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

§ 5554. Pilot operations

For the purpose of facilitating the development and testing of improved methods of governmental supervision (necessary for the protection of the revenue) over distilled spirits plants established under this chapter, the Secretary is authorized to waive any regulatory provisions of this chapter for temporary pilot or experimental operations. Nothing in this section shall be construed as authority to waive the filing of any bond or the payment of any tax provided for in this chapter.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1395; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5554, act Aug. 16, 1954, ch. 736, 68A Stat. 681, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

§ 5555. Records, statements, and returns

(a) General

Every person liable to any tax imposed by this chapter, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may prescribe.

(b) Authority to waive

Whenever in this chapter any record is required to be made or kept, or statement or return is required to be made by any person, the Secretary may by regulation waive, in whole or in part, such requirement when he deems such requirement to no longer serve a necessary purpose. This subsection shall not be construed as authorizing the waiver of the payment of any tax.

(c) Photographic copies

Whenever in this chapter any record is required to be made and preserved by any person, the Secretary may by regulations authorize such person to record, copy, or reproduce by any photographic, photostatic, microfilm, microcard, miniature photographic, or other process, which accurately reproduces or forms a durable medium for so reproducing the original of such record and to retain such reproduction in lieu of the original. Every person who is authorized to retain such reproduction in lieu of the original shall, under such regulations as the Secretary may prescribe, preserve such reproduction in conveniently accessible files and make provision for examining, viewing, and using such reproduction the same as if it were the original. Such reproduction shall be treated and considered for all purposes as though it were the original record and all provisions of law applicable to the original shall be applicable to such reproduction. Such reproduction, or enlargement or facsimile thereof, shall be admissible in evidence in the same manner and under the same conditions as provided for the admission of reproductions, enlargements, or facsimiles of records made in

the regular course of business under section 1732(b) of title 28 of the United States Code.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1395; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98–369, div. A, title IV, § 454(c)(10), July 18, 1984, 98 Stat. 821.)

PRIOR PROVISIONS

A prior section 5555, act Aug. 16, 1954, ch. 736, 68A Stat. 681, consisted of provisions similar to those comprising subsecs. (a) and (b) of this section, prior to the general revision of this chapter by Pub. L. 85–859.

Prior section 5555(a), relating to general provisions respecting records, statements, and returns, is also incorporated in section 5207(b) to (d) of this title.

Prior section 5555(b), relating to authority to waive records, statements, and returns, is also incorporated in section 5505(g) of this title.

AMENDMENTS

1984—Subsec. (a). Pub. L. 98–369 struck out ''or for the affixing of any stamp required to be affixed by this chapter,'' after ''the collection thereof,''.

1976—Subsecs. (a) to (c). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective July 1, 1985, see section 456(b) of Pub. L. 98–369, set out as an Effective Date note under section 5101 of this title.

§ 5556. Regulations

The regulations prescribed by the Secretary for enforcement of this chapter may make such distinctions in requirements relating to construction, equipment, or methods of operation as he deems necessary or desirable due to differences in materials or variations in methods used in production, processing, or storage of distilled spirits.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1396; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5556, act Aug. 16, 1954, ch. 736, 68A Stat. 681, authorized the Secretary to prescribe regulations, prior to the general revision of this chapter by Pub. L. 85–859.

For application to vinegar plants of regulatory provisions of prior section 5556, see also section 5505(h) of this title.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

APPLICABILITY OF RULES AND REGULATIONS

Section 210(e) of title II of Pub. L. 85–859 provided that: ''Until regulations are promulgated under any provision of this title [enacting sections 5849, 5854, 5855, and 7608 of this title, amending this chapter, chapter 52 of this title and sections 5801, 5811, 5814, 5821, 5843, 5848, 5851, 6071, 6207, 6422, 7214, 7272, 7301, 7324 to 7326, 7609, 7652 and 7655 of this title, and enacting notes set out under sections 5001, 5006, 5025, 5064, 5175, 5304 and 5601 of this title] which depends for its application upon the promulgation of regulations (or which is to be applied in such manner as may be prescribed by regulations) all instructions, rules, or regulations which are in effect immediately prior to the effective date of such provision shall, to the extent such instructions, rules, or regulations could be prescribed as regulations under authority of such provision, be applied as is promulgated as regulations under such provision.''

§ 5557. Officers and agents authorized to investigate, issue search warrants, and prosecute for violations

(a) General

The Secretary shall investigate violations of this subtitle and in any case in which prosecution appears warranted the Secretary shall report the violation to the United States Attorney for the district in which such violation was committed, who is hereby charged with the duty of prosecuting the offenders, subject to the direction of the Attorney General, as in the case of other offenses against the laws of the United States; and the Secretary may swear out warrants before United States magistrate judges or other officers or courts authorized to issue warrants for the apprehension of such offenders, and may, subject to the control of such United States Attorney, conduct the prosecution at the committing trial for the purpose of having the offenders held for the action of a grand jury. Section 3041 of title 18 of the United States Code is hereby made applicable in the enforcement of this subtitle.

(b) Cross reference

For provisions relating to the issuance of search warrants, see the Federal Rules of Criminal Procedure.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1396; amended Pub. L. 90–578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

REFERENCES IN TEXT

The Federal Rules of Criminal Procedure, referred to in subsec. (b), are set out in the Appendix of Title 18, Crimes and Criminal Procedure.

PRIOR PROVISIONS

A prior section 5557, act Aug. 16, 1954, ch. 736, 68A Stat. 681, related to applicability of other provisions, prior to the general revision of this chapter by Pub. L. 85–859. See section 5560 of this title.

Provisions similar to those comprising this section were contained in prior section 5314, act Aug. 16, 1954, ch. 736, 68A Stat. 659, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

CHANGE OF NAME

''United States magistrate judges'' substituted for ''United States magistrates'' in subsec. (a) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, ''United States magistrates'' substituted for ''United States commissioners'' pursuant to Pub. L. 90–578. See chapter 43 (§ 631 et seq.) of Title 28.

§ 5558. Authority of enforcement officers

For provisions relating to the authority of internal revenue enforcement officers, see section 7608.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1396.)

§ 5559. Determinations

Whenever the Secretary is required or authorized, in this chapter, to make or verify any quantitative determination, such determination or verification may be made by actual count, weight, or measurement, or by the application of statistical methods, or by other means, under such regulations as the Secretary may prescribe.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1396; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

§ 5560. Other provisions applicable

All provision of subtitle F, insofar as applicable and not inconsistent with the provisions of this subtitle, are hereby extended to and made a part of this subtitle.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1396.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior section 5557, act Aug. 16, 1954, ch. 736, 68A Stat. 681, prior to the general revision of this chapter by Pub. L. 85–859.

§ 5561. Exemptions to meet the requirements of the national defense

The Secretary may temporarily exempt proprietors of distilled spirits plants from any provision of the internal revenue laws relating to distilled spirits, except those requiring payment of the tax thereon, whenever in his judgment it may seem expedient to do so to meet the requirements of the national defense. Whenever the Secretary shall exercise the authority conferred by this section he may prescribe such regulations as may be necessary to accomplish the purpose which caused him to grant the exemption.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1397; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior section 5217(b), act Aug. 16, 1954, ch. 736, 68A Stat. 641, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

§ 5562. Exemptions from certain requirements in cases of disaster

Whenever the Secretary finds that it is necessary or desirable, by reason of disaster, to waive provisions of internal revenue law with regard to distilled spirits, he may temporarily exempt proprietors of distilled spirits plants from any provision of the internal revenue laws relating to distilled spirits, except those requiring payment of the tax thereon, to the extent he may deem necessary or desirable.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1397; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior section 5215, act Aug. 16, 1954, ch. 736, 68A Stat. 640, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary''.

Subchapter J—Penalties, Seizures, and Forfeitures Relating to Liquors

Part
I. Penalty, seizure, and forfeiture provisions applicable to distilling, rectifying, and distilled and rectified products.
II. Penalty and forfeiture provisions applicable to wine and wine production.
III. Penalty, seizure, and forfeiture provisions applicable to beer and brewing.
IV. Penalty, seizure, and forfeiture provisions common to liquors.
[V. Repealed.]

PRIOR PROVISIONS

A prior subchapter J consisted of parts I to V, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

2005—Pub. L. 109–59, title XI, § 11125(b)(19)(B), Aug. 10, 2005, 119 Stat. 1956, struck out item for part V ''Penalties applicable to occupational taxes''.

PART I—PENALTY, SEIZURE, AND FORFEITURE PROVISIONS APPLICABLE TO DISTILLING, RECTIFYING, AND DISTILLED AND RECTIFIED PRODUCTS

Sec.
5601. Criminal penalties.
5602. Penalty for tax fraud by distiller.
5603. Penalty relating to records, returns, and reports.[1]
5604. Penalties relating to marks, brands, and containers.
5605. Penalty relating to return of materials used in the manufacture of distilled spirits, or from which distilled spirits may be recovered.
5606. Penalty relating to containers of distilled spirits.
5607. Penalty and forfeiture for unlawful use, recovery, or concealment of denatured distilled spirits, or articles.
5608. Penalty and forfeiture for fraudulent claims for export drawback or unlawful relanding.
5609. Destruction of unregistered stills, distilling apparatus, equipment, and materials.
5610. Disposal of forfeited equipment and material for distilling.
5611. Release of distillery before judgment.
5612. Forfeiture of taxpaid distilled spirits remaining on bonded premises.
5613. Forfeiture of distilled spirits not closed, marked, or branded as required by law.
5614. Burden of proof in cases of seizure of spirits.
5615. Property subject to forfeiture.

PRIOR PROVISIONS

A prior part I consisted of sections 5601 to 5650, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

[1] So in original. Does not conform to section catchline.

AMENDMENTS

1984—Pub. L. 98–369, div. A, title IV, § 454(c)(11)(B), (12)(C), July 18, 1984, 98 Stat. 822, struck out ''stamps,'' in item 5604, and substituted ''closed'' for ''stamped'' in item 5613.

§ 5601. Criminal penalties

(a) Offenses

Any person who—

(1) Unregistered stills

has in his possession or custody, or under his control, any still or distilling apparatus set up which is not registered, as required by section 5179(a); or

(2) Failure to file application

engages in the business of a distiller or processor without having filed application for and received notice of registration, as required by section 5171(c); or

(3) False or fraudulent application

engages, or intends to engage, in the business of distiller, warehouseman, or processor of distilled spirits, and files a false or fraudulent application under section 5171; or

(4) Failure or refusal of distiller, warehouseman, or processor to give bond

carries on the business of a distiller, warehouseman, or processor without having given bond as required by law; or

(5) False, forged, or fraudulent bond

engages, or intends to engage, in the business of distiller, warehouseman, or processor of distilled spirits, and gives any false, forged, or fraudulent bond, under subchapter B; or

(6) Distilling on prohibited premises

uses, or possesses with intent to use, any still, boiler, or other utensil for the purpose of producing distilled spirits, or aids or assists therein, or causes or procures the same to be done, in any dwelling house, or in any shed, yard, or inclosure connected with such dwelling house (except as authorized under section 5178(a)(1)(C)), or on board any vessel or boat, or on any premises where beer or wine is made or produced, or where liquors of any description are retailed, or on premises where any other business is carried on (except when authorized under section 5178(b)); or

(7) Unlawful production, removal, or use of material fit for production of distilled spirits

except as otherwise provided in this chapter, makes or ferments mash, wort, or wash, fit for distillation or for the production of distilled spirits, in any building or on any premises other than the designated premises of a distilled spirits plant lawfully qualified to produce distilled spirits, or removes, without authorization by the Secretary, any mash, wort, or wash, so made or fermented, from the designated premises of such lawfully qualified plant before being distilled; or

(8) Unlawful production of distilled spirits

not being a distiller authorized by law to produce distilled spirits, produces distilled spirits by distillation or any other process from any mash, wort, wash, or other material; or

(9) Unauthorized use of distilled spirits in manufacturing processes

except as otherwise provided in this chapter, uses distilled spirits in any process of manufacture unless such spirits—

(A) have been produced in the United States by a distiller authorized by law to produce distilled spirits and withdrawn in compliance with law; or

(B) have been imported (or otherwise brought into the United States) and withdrawn in compliance with law; or

(10) Unlawful processing

engages in or carries on the business of a processor—

(A) with intent to defraud the United States of any tax on the distilled spirits processed by him; or

(B) with intent to aid, abet, or assist any person or persons in defrauding the United States of the tax on any distilled spirits; or

(11) Unlawful purchase, receipt, or processing of distilled spirits

purchases, receives, or processes any distilled spirits, knowing or having reasonable grounds to believe that any tax due on such spirits has not been paid or determined as required by law; or

(12) Unlawful removal or concealment of distilled spirits

removes, other than as authorized by law, any distilled spirits on which the tax has not been paid or determined, from the place of manufacture or storage, or from any instrument of transportation, or conceals spirits so removed; or

(13) Creation of fictitious proof

adds, or causes to be added, any ingredient or substance (other than ingredients or substances authorized by law to be added) to any distilled spirits before the tax is paid thereon, or determined as provided by law, for the purpose of creating fictitious proof; or

(14) Distilling after notice of suspension

after the time fixed in the notice given under section 5221(a) to suspend operations as a distiller, carries on the business of a distiller on the premises covered by the notice of suspension, or has mash, wort, or beer on such premises, or on any premises connected therewith, or has in his possession or under his control any mash, wort, or beer, with intent to distill the same on such premises; or

(15) Unauthorized withdrawal, use, sale, or distribution of distilled spirits for fuel use

Withdraws,[1] uses, sells, or otherwise disposes of distilled spirits produced under section 5181 for other than fuel use;

shall be fined not more than $10,000, or imprisoned not more than 5 years, or both, for each such offense.

(b) Presumptions

Whenever on trial for violation of subsection (a)(4) the defendant is shown to have been at the

[1] So in original. Probably should not be capitalized.

site or place where, and at the time when, the business of a distiller or processor was so engaged in or carried on, such presence of the defendant shall be deemed sufficient evidence to authorize conviction, unless the defendant explains such presence to the satisfaction of the jury (or of the court when tried without jury).

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1398; amended Pub. L. 94–455, title XIX, §§ 1905(a)(22), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1820, 1834; Pub. L. 96–39, title VIII, § 807(a)(52), July 26, 1979, 93 Stat. 288; Pub. L. 96–223, title II, § 232(e)(2)(A), Apr. 2, 1980, 94 Stat. 280.)

PRIOR PROVISIONS

A prior section 5601, act Aug. 16, 1954, ch. 736, 68A Stat. 683, consisted of provisions similar to those comprising subsec. (a)(1) of this section, and also related to forfeiture for possession of unregistered still or distilling apparatus, prior to the general revision of this chapter by Pub. L. 85–859. See section 5615(1) of this title.

Provisions similar to those comprising subsecs. (a)(2) to (8), (9)(A), (10) to (14) of this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85–859, as follows:

Present subd. of subsec. (a):	*Prior sections*
(2)	5172, 5603.
(3)	5603.
(4)	5172, 5604, 5606.
(5)	5604.
(6)	5171, 5607.
(7)	5216(a)(1), (4), 5608(a).
(8)	5216(a)(1), 5608(a).
(9)	5216(a)(1), 5608(a).
(10)	5628, 5629.
(11)	5629.
(12)	5608(a), 5631, 5632, 5643, 5647.
(13)	5634.
(14)	5650.

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 627, 640, 641, 684, 685, 689, 690, 692, 693, 695.

AMENDMENTS

1980—Subsec. (a)(15). Pub. L. 96–223 added par. (15).

1979—Subsec. (a)(2). Pub. L. 96–39, § 807(a)(52)(A), struck out ''distiller or rectifier'' in heading and substituted ''processor'' for ''rectifier'' and ''section 5171(c)'' for ''section 5171(a)'' in text.

Subsec. (a)(3). Pub. L. 96–39, § 807(a)(52)(B), substituted ''warehouseman, or processor'' for ''bonded warehouseman, rectifier, or bottler''.

Subsec. (a)(4). Pub. L. 96–39, § 807(a)(52)(C), substituted ''warehouseman, or processor'' for ''or rectifier'' in heading and in text.

Subsec. (a)(5). Pub. L. 96–39, § 807(a)(52)(B), substituted ''warehouseman, or processor'' for ''bonded warehouseman, rectifier, or bottler''.

Subsec. (a)(10). Pub. L. 96–39, § 807(a)(52)(D), substituted ''processing'' for ''rectifying or bottling'' in par. (10) heading, ''processor'' for ''rectifier, or a bottler of distilled spirits'' in text preceding subpar. (A), and ''processed'' for ''rectified or bottled'' in subpar. (A).

Subsec. (a)(11). Pub. L. 96–39, § 807(a)(52)(E), substituted ''or processing'' for ''rectification, or bottling'' in heading and ''or processes'' for ''rectifies, or bottles'' in text.

Subsec. (b). Pub. L. 96–39, § 807(a)(52)(F), substituted ''processor'' for ''rectifier''.

1976—Subsec. (a)(7). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (b). Pub. L. 94–455, § 1905(a)(22), struck out par. (1) relating to presumptions in the matter of unregistered stills, par. (3) relating to presumptions in the matter of unlawful production, removal, or use of material fit for production of distilled spirits, and par. (4) relating to presumptions in the matter of unlawful production of distilled spirits, and struck out the number designation ''(2)'' and heading for former par. (2), leaving only the text for former par. (2) relating to presumptions in the matter of failure or refusal of distiller or rectifier to give bond.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–223 effective on first day of first calendar month beginning more than 60 days after Apr. 2, 1980, see section 232(h)(3) of Pub. L. 96–223, set out as an Effective Date note under section 5181 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 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.

PROSECUTION AND PUNISHMENT OF OFFENSES COMMITTED AND PENALTIES OR FORFEITURES INCURRED; SAVINGS PROVISION

Section 210(c) of title II of Pub. L. 85–859 provided that: ''All offenses committed, and all penalties or forfeitures incurred, under any provision of law amended by this title [enacting sections 5849, 5854, 5855 and 7608 of this title, amending this chapter, chapter 52 of this title and sections 5801, 5811, 5814, 7272, 7301, 7224 to 7326, 7609, 7652 and 7655 of this title, and enacting notes set out under this section and sections 5001, 5006, 5025, 5064, 5175, and 5304 of this title], may be prosecuted and punished in the same manner and with the same effect as if this title had not been enacted.''

§ 5602. Penalty for tax fraud by distiller

Whenever any person engaged in or carrying on the business of a distiller defrauds, attempts to defraud, or engages in such business with intent to defraud the United States of the tax on the spirits distilled by him, or of any part thereof, he shall be fined not more than $10,000, or imprisoned not more than 5 years, or both. No discontinuance or nolle prosequi of any prosecution under this section shall be allowed without the permission in writing of the Attorney General.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1400.)

PRIOR PROVISIONS

A prior section 5602, act Aug. 16, 1954, ch. 736, 68A Stat. 863, related to penalty and forfeiture for setting up still without a permit, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5615(2) and 5687 of this title.

Provisions similar to those comprising this section were contained in prior sections 5606, 5626, act Aug. 16, 1954, ch. 736, 68A Stat. 684, 688, prior to the general revision of this chapter by Pub. L. 85–859.

§ 5603. Penalty relating to records, returns and reports

(a) Fraudulent noncompliance

Any person required by this chapter (other than subchapters F and G) or regulations issued

pursuant thereto to keep or file any record, return, report, summary, transcript, or other document, who, with intent to defraud the United States, shall—

(1) fail to keep any such document or to make required entries therein; or

(2) make any false entry in such document; or

(3) cancel, alter, or obliterate any part of such document or any entry therein, or destroy any part of such document or any entry therein; or

(4) hinder or obstruct any internal revenue officer from inspecting any such document or taking any abstracts therefrom; or

(5) fail or refuse to preserve or produce any such document, as required by this chapter or regulations issued pursuant thereto;

or who shall, with intent to defraud the United States, cause or procure the same to be done, shall be fined not more than $10,000, or imprisoned not more than 5 years, or both, for each such offense.

(b) Failure to comply

Any person required by this chapter (other than subchapters F and G) or regulations issued pursuant thereto to keep or file any record, return, report, summary, transcript, or other document, who, otherwise than with intent to defraud the United States, shall—

(1) fail to keep any such document or to make required entries therein; or

(2) make any false entry in such document; or

(3) cancel, alter, or obliterate any part of such document or any entry therein, or destroy any part of such document, or any entry therein, except as provided by this title or regulations issued pursuant thereto; or

(4) hinder or obstruct any internal revenue officer from inspecting any such document or taking any abstracts therefrom; or

(5) fail to refuse to preserve or produce any such document, as required by this chapter or regulations issued pursuant thereto;

or who shall, otherwise than with intent to defraud the United States, cause or procure the same to be done, shall be fined not more than $1,000, or imprisoned not more than 1 year, or both, for each such offense.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1400.)

PRIOR PROVISIONS

A prior section 5603, act Aug. 16, 1954, ch. 736, 68A Stat. 684, related to penalty for failure or refusal of distiller or rectifier to give notice of intention to engage in such business, prior to the general revision of this chapter by Pub. L. 85–859. See section 5601(a)(2), (3) of this title.

Provisions similar to those comprising this section were contained in prior sections 5610, 5611, 5620, 5621, 5692, act Aug. 16, 1954, ch. 736, 68A Stat. 685 to 687, 703, prior to the general revision of this chapter by Pub. L. 85–859.

§ 5604. Penalties relating to marks, brands, and containers

(a) In general

Any person who shall—

(1) transport, possess, buy, sell, or transfer any distilled spirits unless the immediate container bears the type of closure or other device required by section 5301(d),

(2) with intent to defraud the United States, empty a container bearing the closure or other device required by section 5301(d) without breaking such closure or other device,

(3) empty, or cause to be emptied, any distilled spirits from an immediate container bearing any mark or brand required by law without effacing and obliterating such mark or brand as required by section 5206(d),

(4) place any distilled spirits in any bottle, or reuse any bottle for the purpose of containing distilled spirits, which has once been filled and fitted with a closure or other device under the provisions of this chapter, without removing and destroying such closure or other device,

(5) willfully and unlawfully remove, change, or deface any mark, brand, label, or seal affixed to any case of distilled spirits, or to any bottle contained therein,

(6) with intent to defraud the United States, purchase, sell, receive with intent to transport, or transport any empty cask or package having thereon any mark or brand required by law to be affixed to any cask or package containing distilled spirits, or

(7) change or alter any mark or brand on any cask or package containing distilled spirits, or put into any cask or package spirits of greater strength than is indicated by the inspection mark thereon, or fraudulently use any cask or package having any inspection mark thereon, for the purpose of selling other spirits, or spirits of quantity or quality different from the spirits previously inspected,

shall be fined not more than $10,000 or imprisoned not more than 5 years, or both, for each such offense.

(b) Cross references

For provisions relating to the authority of internal revenue officers to enforce provisions of this section, see sections 5203, 5557, and 7608.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1401; amended Pub. L. 96–39, title VIII, § 807(a)(53), July 26, 1979, 93 Stat. 289; Pub. L. 98–369, div. A, title IV, § 454(c)(11)(A), July 18, 1984, 98 Stat. 821.)

PRIOR PROVISIONS

A prior section 5604, act Aug. 16, 1954, ch. 736, 68A Stat. 684, related to penalty and forfeiture for failure or refusal of distiller to give bond, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5601(a)(4), (5) and 5615(3) of this title.

Provisions similar to those comprising this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85–859, as follows:

Present subsecs.:	*Prior sections*
(a)(1)	5008(b)(1), 5642.
(a)(2), (3)	5636.
(a)(4), (5)	5642, 5644.
(a)(6)	5642.
(a)(7) to (9)	5636.
(a)(10)	5642, 5644.
(a)(11)	5643.
(a)(12)	5642, 5643.
(a)(13) to (15)	5642.

Present subsecs.:	*Prior sections*
(a)(16)	5643.
(a)(17)	5635, 5636.
(a)(18)	5637.
(a)(19)	5638.
(b)	5642.

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 602, 690 to 693.

AMENDMENTS

1984—Subsec. (a). Pub. L. 98–369, § 454(c)(11)(A), in amending subsec. (a) generally, struck out references to stamps in pars. (1) to (3), redesignated pars. (12), (16), (17), (18) as pars. (4)–(7), respectively, in pars. (4) to (7) as so redesignated, struck out all references to stamps, and struck out former pars. (4) to (11), (13) to (15), and (19), which had consisted of additional provisions concerning penalties relating to stamps, marks, brands and containers.

Subsec. (b). Pub. L. 98–369, § 454(c)(11)(A), in amending subsec. (b) generally, substituted provisions relating to cross references for provisions relating to officers authorized to enforce this section.

1979—Subsec. (a)(1). Pub. L. 96–39, § 807(a)(53)(A), substituted ''section 5205(a)(1)'' for ''section 5205(a)(2)''.

Subsec. (a)(2). Pub. L. 96–39, § 807(a)(53)(B), substituted ''section 5205(a)(1)'' for ''section 5205(a)(1) or (2)'' and ''section 5205(a)(2)'' for ''section 5205(a)(3)''.

Subsec. (a)(3). Pub. L. 96–39, § 807(a)(53)(C), substituted ''section 5205(f)'' for ''section 5205(g)''.

Subsec. (a)(6). Pub. L. 96–39, § 807(a)(53)(D), substituted ''section 5205(a)(2)'' for ''section 5205(a)(3)''.

Subsec. (a)(13). Pub. L. 96–39, § 807(a)(53)(E), substituted ''section 5205(a)'' for ''section 5205(a)(2) and (3)''.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective July 1, 1985, see section 456(b) of Pub. L. 98–369, set out as an Effective Date note under section 5101 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.

§ 5605. Penalty relating to return of materials used in the manufacture of distilled spirits, or from which distilled spirits may be recovered

Any person who willfully violates any provision of section 5291(a), or of any regulation issued pursuant thereto, and any officer, director, or agent of any such person who knowingly participates in such violation, shall be fined not more than $1,000, or imprisoned not more than 2 years, or both.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1402.)

PRIOR PROVISIONS

A prior section 5605, act Aug. 16, 1954, ch. 736, 68A Stat. 684, related to penalty for improper approval of distiller's bond, prior to the general revision of this chapter by Pub. L. 85–859. See section 7214 of this title.

Provisions similar to those comprising this section were contained in prior section 5609, act Aug. 16, 1954, ch. 736, 68A Stat. 685, prior to the general revision of this chapter by Pub. L. 85–859.

§ 5606. Penalty relating to containers of distilled spirits

Whoever violates any provision of section 5301, or of any regulation issued pursuant thereto, or the terms or conditions of any permit issued pursuant to the authorization contained in such section, and any officer, director, or agent of any corporation who knowingly participates in such violation, shall, upon conviction, be fined not more than $1,000, or imprisoned not more than 1 year, or both, for each such offense.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1402.)

PRIOR PROVISIONS

A prior section 5606, act Aug. 16, 1954, ch. 736, 68A Stat. 684, related to penalty and forfeiture for distilling without giving bond, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5601(a)(4), 5602, and 5615(3) of this title.

Provisions similar to those comprising this section were contained in prior section 5641, act Aug. 16, 1954, ch. 736, 68A Stat. 692, prior to the general revision of this chapter by Pub. L. 85–859.

§ 5607. Penalty and forfeiture for unlawful use, recovery, or concealment of denatured distilled spirits, or articles

Any person who—

(1) uses denatured distilled spirits withdrawn free of tax under section 5214(a)(1) in the manufacture of any medicinal preparation or flavoring extract in violation of the provisions of section 5273(b)(1) or knowingly sells, or offers for sale, any such medicinal preparation or flavoring extract in violation of section 5273(b)(2); or

(2) knowingly withdraws any denatured distilled spirits free of tax under section 5214(a)(1) for beverage purposes; or

(3) knowingly sells any denatured distilled spirits withdrawn free of tax under section 5214(a)(1), or any articles containing such denatured distilled spirits, for beverage purposes; or

(4) recovers or attempts to recover by redistillation or by any other process or means (except as authorized in section 5223 or in section 5273(c)) any distilled spirits from any denatured distilled spirits withdrawn free of tax under section 5214(a)(1), or from any articles manufactured therefrom, or knowingly uses, sells, conceals, or otherwise disposes of distilled spirits so recovered or redistilled;

shall be fined not more than $10,000, or imprisoned not more than 5 years, or both, for each such offense; and all personal property used in connection with his business, together with the buildings and ground constituting the premises on which such unlawful acts are performed or permitted to be performed shall be forfeited to the United States.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1402.)

PRIOR PROVISIONS

A prior section 5607, act Aug. 16, 1954, ch. 736, 68A Stat. 684, related to penalty for distilling on prohibited premises, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5505(i) and 5601(a)(6) of this title.

Provisions similar to those comprising this section were contained in prior section 5647, act Aug. 16, 1954, ch. 736, 68A Stat. 693, prior to the general revision of this chapter by Pub. L. 85–859.

§ 5608. Penalty and forfeiture for fraudulent claims for export drawback or unlawful relanding

(a) Fraudulent claim for drawback

Every person who fraudulently claims, or seeks, or obtains an allowance of drawback on any distilled spirits, or fraudulently claims any greater allowance or drawback than the tax actually paid or determined thereon, shall forfeit and pay to the Government of the United States triple the amount wrongfully and fraudulently sought to be obtained, and shall be imprisoned not more than 5 years; and every owner, agent, or master of any vessel or other person who knowingly aids or abets in the fraudulent collection or fraudulent attempts to collect any drawback upon, or knowingly aids or permits any fraudulent change in the spirits so shipped, shall be fined not more than $5,000, or imprisoned not more than 3 years, or both, and the ship or vessel on board of which such shipment was made or pretended to be made shall be forfeited to the United States, whether a conviction of the master or owner be had or otherwise, and proceedings may be had in admiralty by libel for such forfeiture.

(b) Unlawful relanding

Every person who, with intent to defraud the United States, relands within the jurisdiction of the United States any distilled spirits which have been shipped for exportation under the provisions of this chapter, or who receives such relanded distilled spirits, and every person who aids or abets in such relanding or receiving of such spirits, shall be fined not more than $5,000, or imprisoned not more than 3 years, or both; and all distilled spirits so relanded, together with the vessel from which the same were relanded within the jurisdiction of the United States, and all vessels, vehicles, or aircraft used in relanding and removing such distilled spirits, shall be forfeited to the United States.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1403; amended Pub. L. 89–44, title VIII, § 805(e), June 21, 1965, 79 Stat. 161.)

PRIOR PROVISIONS

A prior section 5608, act Aug. 16, 1954, ch. 736, 68A Stat. 685, related to penalty for making or fermenting mash on unauthorized premises, illegal use of spirits, unlawful removal of vinegar, etc., prior to the general revision of this chapter by Pub. L. 85–859. See sections 5505(i), 5601(a)(7), (8), (9)(A), (12), 5615(4), and 5687 of this title.

Provisions similar to those comprising this section were contained in prior section 5648, act Aug. 16, 1954, ch. 736, 68A Stat. 694, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1965—Subsec. (b). Pub. L. 89–44 substituted ‘‘, with intent to defraud the United States,’’ for ‘‘intentionally’’ after ‘‘Every person who’’.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–44 effective July 1, 1965, see section 805(g)(1) of Pub. L. 89–44, set out as a note under section 5008 of this title.

§ 5609. Destruction of unregistered stills, distilling apparatus, equipment, and materials

(a) General

In the case of seizure elsewhere than on premises qualified under this chapter of any unregistered still, distilling or fermenting equipment or apparatus, or distilling or fermenting material, for any offense involving forfeiture of the same, where it shall be impracticable to remove the same to a place of safe storage from the place where seized, the seizing officer is authorized to destroy the same. In the case of seizure, other than on premises qualified under this chapter or in transit thereto or therefrom, of any distilled spirits on which the tax has not been paid or determined, for any offense involving forfeiture of the same, the seizing officer is authorized to destroy the distilled spirits forthwith. Any destruction under this subsection shall be in the presence of at least one credible witness. The seizing officer shall make such report of said seizure and destruction and take such samples as the Secretary may require.

(b) Claims

Within 1 year after destruction made pursuant to subsection (a) the owner of, including any person having an interest in, the property so destroyed may make application to the Secretary for reimbursement of the value of such property. If the claimant establishes to the satisfaction of the Secretary that—

(1) such property had not been used in violation of law; or

(2) any unlawful use of such property had been without his consent or knowledge,

the Secretary shall make an allowance to such claimant not exceeding the value of the property destroyed.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1403; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5609, act Aug. 16, 1954, ch. 736, 68A Stat. 685, related to penalty in connection to return of materials used in the manufacture of distilled spirits, prior to the general revision of this chapter by Pub. L. 85–859. See section 5605 of this title.

Provisions similar to those comprising this section were contained in prior section 5623, act Aug. 16, 1954, ch. 736, 68A Stat. 687, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Subsecs. (a), (b). Pub. L. 94–455 struck out ‘‘or his delegate’’ after ‘‘Secretary’’ wherever appearing.

§ 5610. Disposal of forfeited equipment and material for distilling

All boilers, stills, or other vessels, tools and implements, used in distilling or processing, and forfeited under any of the provisions of this chapter, and all condemned material, together with any engine or other machinery connected therewith, and all empty barrels, and all grain or other material suitable for fermentation or distillation, shall be sold at public auction or otherwise disposed of as the court in which forfeiture was recovered shall in its discretion direct.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1404; amended Pub. L. 96–39, title VIII, § 807(a)(54), July 26, 1979, 93 Stat. 289.)

PRIOR PROVISIONS

A prior section 5610, act Aug. 16, 1954, ch. 736, 68A Stat. 685, related to penalty for using unregistered materials for producing spirits, prior to the general revision of this chapter by Pub. L. 85–859. See section 5603 of this title.

Provisions similar to those comprising this section were contained in prior section 5622, act Aug. 16, 1954, ch. 736, 68A Stat. 687, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1979—Pub. L. 96–39 substituted ''or processing'' for ''or rectifying''.

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.

§ 5611. Release of distillery before judgment

Any distillery or distilling apparatus seized on any premises qualified under this chapter, for any violation of law, may, in the discretion of the court, be released before final judgment to a receiver appointed by the court to operate such distillery or apparatus. Such receiver shall give bond, which shall be approved in open court, with corporate surety, for the full appraised value of all the property seized, to be ascertained by three competent appraisers designated and appointed by the court. Funds obtained from such operation shall be impounded as the court shall direct pending such final judgment.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1404.)

PRIOR PROVISIONS

A prior section 5611, act Aug. 16, 1954, ch. 736, 68A Stat. 685, related to penalty for using false weights and measures, prior to the general revision of this chapter by Pub. L. 85–859. See section 5603 of this title.

Provisions similar to those comprising this section were contained in prior section 5624, act Aug. 16, 1954, ch. 736, 68A Stat. 688, prior to the general revision of this chapter by Pub. L. 85–859.

§ 5612. Forfeiture of taxpaid distilled spirits remaining on bonded premises

(a) General

No distilled spirits on which tax has been paid or determined shall be stored or allowed to remain on the bonded premises of any distilled spirits plant, under the penalty of forfeiture of all spirits so found.

(b) Exceptions

Subsection (a) shall not apply in the case of—

(1) distilled spirits in the process of prompt removal from bonded premises on payment or determination of the tax; or

(2) distilled spirits returned to bonded premises in accordance with the provisions of section 5215.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1404; amended Pub. L. 96–39, title VIII, § 807(a)(55), July 26, 1979, 93 Stat. 289.)

PRIOR PROVISIONS

A prior section 5612, act Aug. 16, 1954, ch. 736, 68A Stat. 685, related to penalty for using material or removing spirits without supervision, prior to the general revision of this chapter by Pub. L. 85–859. See section 5687 of this title.

Provisions similar to those comprising subsec. (a) of this section were contained in prior section 5625, act Aug. 16, 1954, ch. 736, 68A Stat. 688, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1979—Subsec. (b). Pub. L. 96–39 redesignated subpars. (2) and (3) as (1) and (2), respectively, and struck out former subpars. (1) and (4) which excepted distilled spirits which were bottled in bond under section 5233 of this title and which were returned to bonded premises for rebottling, relabeling, or restamping in accordance with subsec. (d) of section 5233, and excepted such spirits, held on bonded premises, on which the tax had become payable by operation of law, but on which the tax had not been paid.

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.

SUSPENSION OF SUBSECTION (a) DURING 1980

Pub. L. 96–39, title VIII, § 808(c)(1), July 26, 1979, 93 Stat. 291, set out as a note under section 5061 of this title, provided that subsec. (a) of this section was not to apply during 1980.

§ 5613. Forfeiture of distilled spirits not closed, marked, or branded as required by law

(a) Unmarked or unbranded casks or packages

All distilled spirits found in any cask or package required by this chapter or any regulation issued pursuant thereto to bear a mark, brand, or identification, which cask or package is not marked, branded, or identified in compliance with this chapter and regulations issued pursuant thereto, shall be forfeited to the United States.

(b) Containers without closures

All distilled spirits found in any container which is required by this chapter to bear a closure or other device and which does not bear a closure or other device in compliance with this chapter shall be forfeited to the United States.

(Added Pub. L. 85–859, title II, § 201, Sept. 21, 1958, 72 Stat. 1404; amended Pub. L. 98–369, div. A, title IV, § 454(c)(12)(A), (B), July 18, 1984, 98 Stat. 822.)

PRIOR PROVISIONS

A prior section 5613, act Aug. 16, 1954, ch. 736, 68A Stat. 685, related to penalty for distilling during prohibited hours, prior to the general revision of this chapter by Pub. L. 85–859. See section 5687 of this title.

Provisions similar to those comprising this section were contained in prior sections 5639 and 5640, act Aug. 16, 1954, ch. 736, 68A Stat. 691, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1984—Pub. L. 98–369, § 454(c)(12)(B), substituted ''closed'' for ''stamped'' in section catchline.

Subsec. (b). Pub. L. 98–369, § 454(c)(12)(A), amended subsec. (b) generally, substituting provisions relating to forfeitures of containers without closures for provisions relating to forfeitures of unstamped containers.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective July 1, 1985, see section 456(b) of Pub. L. 98–369, set out as an Effective Date note under section 5101 of this title.

§ 5614. Burden of proof in cases of seizure of spirits

Whenever seizure is made of any distilled spirits found elsewhere than on the premises of a distilled spirits plant, or than in any warehouse authorized by law, or than in the store or place of business of a wholesale liquor dealer, or than in transit from any one of said places; or of any distilled spirits found in any one of the places aforesaid, or in transit therefrom, which have not been received into or sent out therefrom in conformity to law, or in regard to which any of the entries required by law, or regulations issued pursuant thereto, to be made in respect of such spirits, have not been made at the time or in the manner required, or in respect to which any owner or person having possession, control, or charge of said spirits, has omitted to do any act required to be done, or has done or committed any act prohibited in regard to said spirits, the burden of proof shall be upon the claimant of said spirits to show that no fraud has been committed, and that all the requirements of the law in relation to the payment of the tax have been complied with.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1405.)

PRIOR PROVISIONS

A prior section 5614, act Aug. 16, 1954, ch. 736, 68A Stat. 685, related to penalty and forfeiture for removal of spirits during prohibited hours, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5687 and 7301 of this title.

Provisions similar to those comprising this section were contained in prior section 5649, act Aug. 16, 1954, ch. 736, 68A Stat. 694, prior to the general revision of this chapter by Pub. L. 85–859.

§ 5615. Property subject to forfeiture

The following property shall be forfeited to the United States:

(1) Unregistered still or distilling apparatus

Every still or distilling apparatus not registered as required by section 5179, together with all personal property in the possession or custody or under the control of the person required by section 5179 to register the still or distilling apparatus, and found in the building or in any yard or inclosure connected with the building in which such still or distilling apparatus is set up; and

(2) Distilling apparatus removed without notice or set up without notice

Any still, boiler, or other vessel to be used for the purpose of distilling—

(A) which is removed without notice having been given when required by section 5101(a)(1), or

(B) which is set up without notice having been given when required by section 5101(a)(2); and

(3) Distilling without giving bond or with intent to defraud

Whenever any person carries on the business of a distiller without having given bond as required by law or gives any false, forged, or fraudulent bond; or engages in or carries on the business of a distiller with intent to defraud the United States of the tax on the distilled spirits distilled by him, or any part thereof; or after the time fixed in the notice declaring his intention to suspend work, filed under section 5221(a), carries on the business of a distiller on the premises covered by such notice, or has mash, wort, or beer on such premises, or on any premises connected therewith, or has in his possession or under his control any mash, wort, or beer, with intent to distill the same on such premises—

(A) all distilled spirits or wines, and all stills or other apparatus fit or intended to be used for the distillation or rectification of spirits, or for the compounding of liquors, owned by such person, wherever found; and

(B) all distilled spirits, wines, raw materials for the production of distilled spirits, and personal property found in the distillery or in any building, room, yard, or inclosure connected therewith and used with or constituting a part of the premises; and

(C) all the right, title, and interest of such person in the lot or tract of land on which the distillery is situated; and

(D) all the right, title, and interest in the lot or tract of land on which the distillery is located of every person who knowingly has suffered or permitted the business of a distiller to be there carried on, or has connived at the same; and

(E) all personal property owned by or in possession of any person who has permitted or suffered any building, yard, or inclosure, or any part thereof, to be used for purposes of ingress or egress to or from the distillery, which shall be found in any such building, yard, or inclosure; and

(F) all the right, title, and interest of every person in any premises used for ingress or egress to or from the distillery who knowingly has suffered or permitted such premises to be used for such ingress or egress; and

(4) Unlawful production and removals from vinegar plants

(A) all distilled spirits in excess of 15 percent of alcohol by volume produced on the premises of a vinegar plant; and

(B) all vinegar or other fluid or other material containing a greater proportion than 2 percent of proof spirits removed from any vinegar plant; and

(5) False or omitted entries in records, returns, and reports

Whenever any person required by section 5207 to keep or file any record, return, report, summary, transcript, or other document, shall, with intent to defraud the United States—

(A) fail to keep any such document or to make required entries therein; or

(B) make any false entry in such document; or

(C) cancel, alter, or obliterate any part of such document, or any entry therein, or destroy any part of such document, or entry therein; or

(D) hinder or obstruct any internal revenue officer from inspecting any such document or taking any abstracts therefrom; or

(E) fail or refuse to preserve or produce any such document, as required by this chapter or regulations issued pursuant thereto; or

(F) permit any of the acts described in the preceding subparagraphs to be performed;

all interest of such person in the distilled spirits plant where such acts or omissions occur, and in the equipment thereon, and in the lot or tract of land on which such distilled spirits plant stands, and in all personal property on the premises of the distilled spirits plant where such acts or omissions occur, used in the business there carried on; and

(6) Unlawful removal of distilled spirits

All distilled spirits on which the tax has not been paid or determined which have been removed, other than as authorized by law, from the place of manufacture, storage, or instrument of transportation; and

(7) Creation of fictitious proof

All distilled spirits on which the tax has not been paid or determined as provided by law to which any ingredient or substance has been added for the purpose of creating fictitious proof.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1405; amended Pub. L. 96–39, title VIII, § 807(a)(56), July 26, 1979, 93 Stat. 289; Pub. L. 98–369, div. A, title IV, § 451(b)(2), July 18, 1984, 98 Stat. 819.)

PRIOR PROVISIONS

A prior section 5615, act Aug. 16, 1954, ch. 736, 68A Stat. 686, related to penalty for refusal or neglect of distillers and rectifiers to give assistance to officers, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5203(e) and 5687 of this title.

Provisions similar to those comprising this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 85–859, as follows:

Present subds.:	*Prior sections*
(1)	5601.
(2)	5602.
(3)	5604, 5606, 5626, 5650.
(4)	5608(b).
(5)	5620.
(6)	5631, 5632, 5643, 5647.
(7)	5634.

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 683 to 690, 692, 693, 695.

A prior section 5616, act Aug. 16, 1954, ch. 736, 68A Stat. 686, related to penalty for obstructing or refusing to admit officer to distillery premises, prior to the general revision of this chapter by Pub. L. 85–859. See section 5687 of this title.

A prior section 5617, act Aug. 16, 1954, ch. 736, 68A Stat. 686, related to penalty for failure to keep distillery accessible, prior to the general revision of this chapter by Pub. L. 85–859. See section 5687 of this title.

A prior section 5618, act Aug. 16, 1954, ch. 736, 68A Stat. 686, related to penalty for failure of distiller to identify fixed pipes, prior to the general revision of this chapter by Pub. L. 85–859. See section 5687 of this title.

A prior section 5619, act Aug. 16, 1954, ch. 736, 68A Stat. 686, related to penalty for refusal or neglect to draw off water and clean condensers or worm tanks, prior to the general revision of this chapter by Pub. L. 85–859. See section 5687 of this title.

A prior section 5620, act Aug. 16, 1954, ch. 736, 68A Stat. 686, related to penalty and forfeiture for false or omitted entries in distiller's books and records, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5603 and 5615(5) of this title.

A prior section 5621, act Aug. 16, 1954, ch. 736, 68A Stat. 687, related to penalty concerning records and returns of distiller as wholesale dealers, rectifiers, prior to the general revision of this chapter by Pub. L. 85–859. See section 5603 of this title.

A prior section 5622, act Aug. 16, 1954, ch. 736, 68A Stat. 687, related to disposal of forfeited equipment and material for distilling, prior to the general revision of this chapter by Pub. L. 85–859. See section 5610 of this title.

A prior section 5623, act Aug. 16, 1954, ch. 736, 68A Stat. 687, related to destruction of distilling apparatus, prior to the general revision of this chapter by Pub. L. 85–859. See section 5609 of this title.

A prior section 5624, act Aug. 16, 1954, ch. 736, 68A Stat. 688, related to release of distillery before judgment, prior to the general revision of this chapter by Pub. L. 85–859. See section 5611 of this title.

A prior section 5625, act Aug. 16, 1954, ch. 736, 68A Stat. 688, related to forfeiture of tax-paid distilled spirits remaining on distillery premises, prior to the general revision of this chapter by Pub. L. 85–859. See section 5612(a) of this title.

A prior section 5626, act Aug. 16, 1954, ch. 736, 68A Stat. 688, related to penalty and forfeiture for tax fraud by distiller, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5602 and 5615(3) of this title.

A prior section 5627, act Aug. 16, 1954, ch. 736, 68A Stat. 689, related to penalty for unlawful use of rectifying premises, prior to the general revision of this chapter by Pub. L. 85–859. See section 5687 of this title.

A prior section 5628, act Aug. 16, 1954, ch. 736, 68A Stat. 689, related to penalty for rectification without payment of tax, increasing volume, etc., prior to the general revision of this chapter by Pub. L. 85–859. See section 5601(a)(10) and 5687 of this title.

A prior section 5629, act Aug. 16, 1954, ch. 736, 68A Stat. 689, related to penalty for unlawful rectifying, prior to the general revision of this chapter by Pub. L. 85–859. See section 5601(a)(10), (11) of this title.

A prior section 5630, act Aug. 16, 1954, ch. 736, 68A Stat. 689, related to penalty for noncompliance by rectifiers with provisions relating to rectifying, gauging, branding, and stamping, prior to the general revision of this chapter by Pub. L. 85–859. See section 5687 of this title.

A prior section 5631, act Aug. 16, 1954, ch. 736, 68A Stat. 689, related to penalty and forfeiture for failure to comply with warehousing and removal requirements, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5601(a)(12), 5615(6), and 5687 of this title.

A prior section 5632, act Aug. 16, 1954, ch. 736, 68A Stat. 690, related to penalty or forfeiture for unlawful removal or concealment of spirits, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5601 and 5615 of this title.

A prior section 5633, act Aug. 16, 1954, ch. 736, 68A Stat. 690, related to penalty of officer in charge of warehouse for unlawful removal of spirits, prior to the general revision of this chapter by Pub. L. 85–859. See section 7214 of this title.

A prior section 5634, act Aug. 16, 1954, ch. 736, 68A Stat. 690, related to penalty and forfeiture for creation of fictitious proof, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5601 and 5615 of this title.

A prior section 5635, act Aug. 16, 1954, ch. 736, 68A Stat. 690, related to penalty for buying or selling used casks bearing inspection marks, prior to the general revision of this chapter by Pub. L. 85–859. See section 5604 of this title.

A prior section 5636, act Aug. 16, 1954, ch. 736, 68A Stat. 690, related to penalty and forfeiture for failure to efface, etc., stamps and brands on emptied packages, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5604 and 7301 of this title.

A prior section 5637, act Aug. 16, 1954, ch. 736, 68A Stat. 691, related to penalty for changing stamps or shifting spirits, prior to the general revision of this chapter by Pub. L. 85–859. See section 5604 of this title.

A prior section 5638, act Aug. 16, 1954, ch. 736, 68A Stat. 691, related to penalty and forfeiture for affixing imitation stamps on packages of distilled spirits, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5604, 5613, 7301, and 7302 of this title.

A prior section 5639, act Aug. 16, 1954, ch. 736, 68A Stat. 691, related to forfeiture of distilled spirits in unstamped casks or packages, prior to the general revision of this chapter by Pub. L. 85–859. See section 5613 of this title.

A prior section 5640, act Aug. 16, 1954, ch. 736, 68A Stat. 691, related to forfeiture of spirits in unstamped containers, prior to the general revision of this chapter by Pub. L. 85–859. See section 5613 of this title.

A prior section 5641, act Aug. 16, 1954, ch. 736, 68A Stat. 692, related to penalty and forfeiture relating to containers of distilled spirits, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5606, 5613, 7301, 7302, and 7321 to 7323 of this title.

A prior section 5642, act Aug. 16, 1954, ch. 736, 68A Stat. 692, related to penalties for transporting, possessing, etc., distilled spirits in unstamped containers or counterfeiting of stamps, etc., prior to the general revision of this chapter by Pub. L. 85–859. See section 5604 of this title.

A prior section 5643, act Aug. 16, 1954, ch. 736, 68A Stat. 692, related to penalty and forfeiture for reuse of stamps or bottles, tampering and unlawful removal, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5601, 5604, 5613, 5615, 5687, 7301 and 7302 of this title.

A prior section 5644, act Aug. 16, 1954, ch. 736, 68A Stat. 693, related to penalty for counterfeiting bottled in bond stamps, prior to the general revision of this chapter by Pub. L. 85–859. See section 5604 of this title.

A prior section 5645, act Aug. 16, 1954, ch. 736, 68A Stat. 693, related to penalty for unlawful affixing, canceling, or issue of stamps by officer, prior to the general revision of this chapter by Pub. L. 85–859. See section 7214 of this title.

A prior section 5646, act Aug. 16, 1954, ch. 736, 68A Stat. 693, related to penalty for evasion of distilled spirits tax, prior to the general revision of this chapter by Pub. L. 85–859.

A prior section 5647, act Aug. 16, 1954, ch. 736, 68A Stat. 693, related to penalty and forfeiture for unlawful use or concealment of denatured alcohol, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5273, 5601, 5607, and 5615 of this title.

A prior section 5648, act Aug. 16, 1954, ch. 736, 68A Stat. 694, related to penalty and forfeiture for fraudulent claims for export drawback or unlawful relanding, prior to the general revision of this chapter by Pub. L. 85–859. See section 5608 of this title.

A prior section 5649, act Aug. 16, 1954, ch. 736, 68A Stat. 694, related to burden of proof in cases of seizure of spirits, prior to the general revision of this chapter by Pub. L. 85–859. See section 5614 of this title.

A prior section 5650, act Aug. 16, 1954, ch. 736, 68A Stat. 695, related to penalty and forfeiture for operating distillery after giving notice of suspension, prior to the general revision of this chapter by Pub. L. 85–859. See sections 5601 and 5615 of this title.

AMENDMENTS

1984—Par. (2). Pub. L. 98–369 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''Any still, boiler, or other vessel to be used for the purpose of distilling which is removed without notice having been given as required by section 5105(a) or which is set up without permit first having been obtained as required by such section; and''.

1979—Par. (5). Pub. L. 96–39 substituted ''distilled spirits plant'' for ''distillery, bonded warehouse, or rectifying or bottling establishment'' in three places.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective on first day of first calendar month which begins more than 90 days after July 18, 1984, see section 456(a) of Pub. L. 98–369, set out as an Effective Date note under section 5101 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.

PART II—PENALTY AND FORFEITURE PROVISIONS APPLICABLE TO WINE AND WINE PRODUCTION

Sec.
5661. Penalty and forfeiture for violation of laws and regulations relating to wine.
5662. Penalty for alteration of wine labels.
5663. Cross reference.

PRIOR PROVISIONS

A prior part II consisted of sections 5661 to 5663 of this title, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

§ 5661. Penalty and forfeiture for violation of laws and regulations relating to wine

(a) Fraudulent offenses

Whoever, with intent to defraud the United States, fails to pay any tax imposed upon wine or violates, or fails to comply with, any provision of subchapter F or subpart C of part I of subchapter A, or regulations issued pursuant thereto, or recovers or attempts to recover any spirits from wine, shall be fined not more than $5,000, or imprisoned not more than 5 years, or both, for each such offense, and all products and materials used in any such violation shall be forfeited to the United States.

(b) Other offenses

Any proprietor of premises subject to the provisions of subchapter F, or any employee or agent of such proprietor, or any other person, who otherwise than with intent to defraud the United States violates or fails to comply with any provision of subchapter F or subpart C of part I of subchapter A, or regulations issued pursuant thereto, or who aids or abets in any such violation, shall be fined not more than $1,000, or imprisoned not more than 1 year, or both, for each such offense.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1407.)

PRIOR PROVISIONS

A prior section 5661, act Aug. 16, 1954, ch. 736, 68A Stat. 695, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

Prior section 5661(a) also provided for an additional penalty ''of double the tax due, to be assessed, levied and collected in the same manner as taxes are collected''. See section 6651 et seq. 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.

§ 5662. Penalty for alteration of wine labels

Any person who, without the permission of the Secretary, so alters as to materially change the

meaning of any mark, brand, or label required to appear upon any wine upon its removal from premises subject to the provisions of subchapter F, or from customs custody, or who, after such removal, represents any wine, whether in its original containers or otherwise, to be of an identity or origin other than its proper identity or origin as shown by such stamp, mark, brand, or label, or who, directly or indirectly, and whether by manner of packaging or advertising or any other form of representation, represents any still wine to be an effervescent wine or a substitute for an effervescent wine, shall be fined not more than $1,000, or imprisoned not more than 1 year, or both, for each such offense.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1407; amended Pub. L. 94–455, title XIX, §§ 1905(b)(2)(D), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1822, 1834.)

PRIOR PROVISIONS

A prior section 5662, act Aug. 16, 1954, ch. 736, 68A Stat. 695, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' and ''stamp,'' before ''mark,''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(b)(2)(D) 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.

§ 5663. Cross reference

For penalties of common application pertaining to liquors, including wines, see part IV.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1407; amended Pub. L. 96–39, title VIII, § 807(a)(57), July 26, 1979, 93 Stat. 289.)

PRIOR PROVISIONS

A prior section 5663, act Aug. 16, 1954, ch. 736, 68A Stat. 695, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1979—Pub. L. 96–39 struck out reference to penalties for rectified products under part I of this subchapter.

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.

PART III—PENALTY, SEIZURE, AND FORFEITURE PROVISIONS APPLICABLE TO BEER AND BREWING

Sec.
5671. Penalty and forfeiture for evasion of beer tax and fraudulent noncompliance with requirements.
5672. Penalty for failure of brewer to comply with requirements and to keep records and file returns.
5673. Forfeiture for flagrant and willful removal of beer without taxpayment.
5674. Penalty for unlawful production or removal of beer.
5675. Penalty for intentional removal or defacement of brewer's marks and brands.
[5676. Repealed.]

PRIOR PROVISIONS

A prior part III consisted of sections 5671 to 5676 of this title, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1978—Pub. L. 95–458, § 2(b)(5)(B), Oct. 14, 1978, 92 Stat. 1257, substituted ''production or removal'' for ''removal'' in item 5674.

1976—Pub. L. 94–455, title XIX, § 1905(b)(1)(B), Oct. 4, 1976, 90 Stat. 1822, struck out item 5676 ''Penalties relating to beer stamps''.

§ 5671. Penalty and forfeiture for evasion of beer tax and fraudulent noncompliance with requirements

Whoever evades or attempts to evade any tax imposed by section 5051, or with intent to defraud the United States fails or refuses to keep and file true and accurate records and returns as required by section 5415 and regulations issued pursuant thereto, shall be fined not more than $5,000, or imprisoned not more than 5 years, or both, for each such offense, and shall forfeit all beer made by him or for him, and all the vessels, utensils, and apparatus used in making the same.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1408; amended Pub. L. 109–59, title XI, § 11125(b)(18), Aug. 10, 2005, 119 Stat. 1956.)

PRIOR PROVISIONS

A prior section 5671, act Aug. 16, 1954, ch. 736, 68A Stat. 696, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

2005—Pub. L. 109–59 struck out ''or 5091'' after ''section 5051''.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109–59 effective July 1, 2008, but inapplicable to taxes imposed for periods before such date, see section 11125(c) of Pub. L. 109–59, set out as a note under section 5002 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.

§ 5672. Penalty for failure of brewer to comply with requirements and to keep records and file returns

Every brewer who, otherwise than with intent to defraud the United States, fails or refuses to keep the records and file the returns required by section 5415 and regulations issued pursuant thereto, or refuses to permit any internal revenue officer to inspect his records in the manner provided, or violates any of the provisions of subchapter G or regulations issued pursuant thereto shall be fined not more than $1,000, or imprisoned not more than 1 year, or both, for each such offense.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1408.)

PRIOR PROVISIONS

A prior section 5672, act Aug. 16, 1954, ch. 736, 68A Stat. 696, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

§ 5673. Forfeiture for flagrant and willful removal of beer without taxpayment

For flagrant and willful removal of taxable beer for consumption or sale, with intent to defraud the United States of the tax thereon, all the right, title, and interest of each person who knowingly has suffered or permitted such removal, or has connived at the same, in the lands and buildings constituting the brewery shall be forfeited by a proceeding in rem in the District Court of the United States having jurisdiction thereof.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1408.)

PRIOR PROVISIONS

A prior section 5673, act Aug. 16, 1954, ch. 736, 68A Stat. 696, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

§ 5674. Penalty for unlawful production or removal of beer

(a) Unlawful production

Any person who brews beer or produces beer shall be fined not more than $1,000, or imprisoned not more than 1 year, or both, unless such beer is brewed or produced in a brewery qualified under subchapter G or such production is exempt from tax under section 5053(e) (relating to beer for personal or family use).

(b) Unlawful removal

Any brewer or other person who removes or in any way aids in the removal from any brewery of beer without complying with the provisions of this chapter or regulations issued pursuant thereto shall be fined not more than $1,000, or imprisoned not more than 1 year, or both.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1408; amended Pub. L. 95–458, § 2(b)(5)(A), Oct. 14, 1978, 92 Stat. 1256.)

PRIOR PROVISIONS

A prior section 5674, act Aug. 16, 1954, ch. 736, 68A Stat. 696, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1978—Pub. L. 95–458 substituted ''production or removal'' for ''removal'' in section catchline, redesignated existing provision as subsec. (b), and added subsec. (a).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–458 effective on first day of first calendar month beginning more than 90 days after Oct. 14, 1978, see section 2(c) of Pub. L. 95–458, set out as a note under section 5042 of this title.

§ 5675. Penalty for intentional removal or defacement of brewer's marks and brands

Every person other than the owner, or his agent authorized so to do, who intentionally removes or defaces any mark, brand, or label required by section 5412 and regulations issued pursuant thereto shall be liable to a penalty of $50 for each barrel or other container from which such mark, brand, or label is so removed or defaced.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1408.)

PRIOR PROVISIONS

A prior section 5675, act Aug. 16, 1954, ch. 736, 68A Stat. 696, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

[§ 5676. Repealed. Pub. L. 94–455, title XIX, § 1905(b)(1)(A), Oct. 4, 1976, 90 Stat. 1822]

Section, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1408, set out the penalties for selling, removing, or receiving beer without a proper stamp or device, withdrawing beer from an improperly stamped container or without destroying the stamp, and counterfeiting stamps or devices or trafficking in used stamps or devices, and provided for the forfeiture of unstamped containers, and the penalties for removal or defacement of stamps, devices, or labels.

A prior section 5676, act Aug. 16, 1954, ch. 736, 68A Stat. 697, consisted of provisions similar to those comprising this section prior to repeal by Pub. L. 94–455, prior to the general revision of this chapter by Pub. L. 85–859.

EFFECTIVE DATE OF REPEAL

Repeal 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 an Effective Date of 1976 Amendment note under section 5005 of this title.

PART IV—PENALTY, SEIZURE, AND FORFEITURE PROVISIONS COMMON TO LIQUORS

Sec.
5681. Penalty relating to signs.
5682. Penalty for breaking locks or gaining access.
5683. Penalty and forfeiture for removal of liquors under improper brands.
5684. Penalties relating to the payment and collection of liquor taxes.
5685. Penalty and forfeiture relating to possession of devices for emitting gas, smoke, etc., explosives and firearms, when violating liquor laws.
5686. Penalty for having, possessing, or using liquor or property intended to be used in violating provisions of this chapter.
5687. Penalty for offenses not specifically covered.
5688. Disposition and release of seized property.
[5689. Repealed.]
5690. Definition of the term ''person''.

PRIOR PROVISIONS

A prior part IV consisted of sections 5681 to 5690 of this title, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

1976—Pub. L. 94–455, title XIX, § 1905(b)(2)(E)(ii), Oct. 4, 1976, 90 Stat. 1822, struck out item 5689 ''Penalty and forfeiture for tampering with a stamp machine''.

§ 5681. Penalty relating to signs

(a) Failure to post required sign

Every person engaged in distilled spirits operations who fails to post the sign required by sec-

tion 5180(a) shall be fined not more than $1,000, or imprisoned not more than 1 year, or both.

(b) Posting or displaying false sign

Every person, other than a distiller, warehouseman, or processor of distilled spirits who has received notice of registration of his plant under the provisions of section 5171(c), or other than a wholesale dealer in liquors who has paid the special tax (or who is exempt from payment of such special tax by reason of the provisions of section 5113(a)),[1] who puts up or keeps up any sign indicating that he may lawfully carry on the business of a distiller, warehouseman, or processor of distilled spirits, or wholesale dealer in liquors, as the case may be, shall be fined not more than $1,000, or imprisoned not more than 1 year, or both.

(c) Premises where no sign is placed or kept

Every person who works in any distilled spirits plant on which no sign required by section 5180(a) is placed or kept, and every person who knowingly receives at, or carries or conveys any distilled spirits to or from any such distilled spirits plant or who knowingly carries or delivers any grain, molasses, or other raw material to any distilled spirits plant on which such a sign is not placed and kept, shall forfeit all vehicles, aircraft, or vessels used in carrying or conveying such property and shall be fined not more than $1,000, or imprisoned not more than 1 year, or both.

(d) Presumption

Whenever on trial for violation of subsection (c) by working in a distilled spirits plant on which no sign required by section 5180(a) is placed or kept, the defendant is shown to have been present at such premises, such presence of the defendant shall be deemed sufficient evidence to authorize conviction, unless the defendant explains such presence to the satisfaction of the jury (or of the court when tried without jury).

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1410; amended Pub. L. 96–39, title VIII, § 807(a)(58), July 26, 1979, 93 Stat. 289; Pub. L. 105–34, title XIV, § 1415(b)(1), (2), Aug. 5, 1997, 111 Stat. 1047.)

REFERENCES IN TEXT

Section 5113, referred to in subsec. (b), was repealed by Pub. L. 109–59, title XI, § 11125(a)(1)(C), Aug. 10, 2005, 119 Stat. 1953.

PRIOR PROVISIONS

A prior section 5681, act Aug. 16, 1954, ch. 736, 68A Stat. 698, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–34, § 1415(b)(1), struck out ", and every wholesale dealer in liquors," after "spirits operations" and "section 5115(a) or" after "sign required by".

Subsec. (c). Pub. L. 105–34, § 1415(b)(2), substituted "on which no sign required by" for "or wholesale liquor establishment, on which no sign required by section 5115(a) or" and substituted "or who" for "or wholesale liquor establishment, or who".

1979—Subsec. (a). Pub. L. 96–39, § 807(a)(58)(A), substituted "distilled spirits operations" for "distilling, warehousing of distilled spirits, rectifying, or bottling of distilled spirits".

Subsec. (b). Pub. L. 96–39, § 807(a)(58)(B), substituted "other than a distiller, warehouseman, or processor of distilled spirits" for "other than a distiller, warehouseman of distilled spirits, rectifier, or bottler of distilled spirits", "section 5171(c)" for "section 5171(a)", and "business of a distiller, warehouseman, or processor of distilled spirits" for "business of a distiller, bonded warehouseman, rectifier, bottler of distilled spirits".

Subsec. (c). Pub. L. 96–39, § 807(a)(58)(C), substituted "in any distilled spirits plant" for "in any distillery, or in any rectifying, distilled spirits bottling", "such distilled spirits plant" for "such distillery, or to or from any such rectifying, distilled spirits bottling", and "to any distilled spirits plant" for "to any distillery".

Subsec. (d). Pub. L. 96–39, § 807(a)(58)(D), substituted "distilled spirits plant" for "distillery or rectifying establishment".

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1415(c) of Pub. L. 105–34 provided that: "The amendments made by this section [amending this section and repealing section 5115 of this title] shall take effect on the date of the enactment of this Act [Aug. 5, 1997]."

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

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.

§ 5682. Penalty for breaking locks or gaining access

Every person, who destroys, breaks, injures, or tampers with any lock or seal which may be placed on any room, building, tank, vessel, or apparatus, by any authorized internal revenue officer or any approved lock or seal placed thereon by a distilled spirits plant proprietor, or who opens said lock, seal, room, building, tank, vessel, or apparatus, or in any manner gains access to the contents therein, in the absence of the proper officer, or otherwise than as authorized by law, shall be fined not more than $5,000, or imprisoned not more than 3 years, or both.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1410; amended Pub. L. 96–39, title VIII, § 807(a)(59), July 26, 1979, 93 Stat. 290.)

PRIOR PROVISIONS

A prior section 5682, act Aug. 16, 1954, ch. 736, 68A Stat. 698, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1979—Pub. L. 96–39 expanded penalty provisions to include persons tampering with locks or seals affixed by distilled spirits plant proprietors.

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.

§ 5683. Penalty and forfeiture for removal of liquors under improper brands

Whenever any person ships, transports, or removes any distilled spirits, wines, or beer, under

[1] See References in Text note below.

any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the casks or packages containing the same, or causes such act to be done, he shall be fined not more than $1,000, or imprisoned not more than 1 year, or both, and shall forfeit such distilled spirits, wines, or beer, and casks or packages.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1410.)

PRIOR PROVISIONS

A prior section 5683, act Aug. 16, 1954, ch. 736, 68A Stat. 699, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

§ 5684. Penalties relating to the payment and collection of liquor taxes

(a) Failure to pay tax

Whoever fails to pay any tax imposed by part I of subchapter A at the time prescribed shall, in addition to any other penalty provided in this title, be liable to a penalty of 5 percent of the tax due but unpaid.

(b) Applicability of section 6665

The penalties imposed by subsection (a) shall be assessed, collected, and paid in the same manner as taxes, as provided in section 6665(a).

(c) Cross references

(1) For provisions relating to interest in the case of taxes not paid when due, see section 6601.

(2) For penalty for failure to file tax return or pay tax, see section 6651.

(3) For additional penalties for failure to pay tax, see section 6653.

(4) For penalty for failure to make deposits or for overstatement of deposits, see section 6656.

(5) For penalty for attempt to evade or defeat any tax imposed by this title, see section 7201.

(6) For penalty for willful failure to file return, supply information, or pay tax, see section 7203.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1410; amended Pub. L. 91–172, title IX, § 943(c)(4), Dec. 30, 1969, 83 Stat. 728; Pub. L. 97–34, title VII, §§ 722(a)(3), 724(b)(4), Aug. 13, 1981, 95 Stat. 342, 345; Pub. L. 98–369, div. A, title VII, §§ 714(h)(1), 722(a)(5), July 18, 1984, 98 Stat. 962, 973; Pub. L. 101–239, title VII, § 7721(c)(3), Dec. 19, 1989, 103 Stat. 2399.)

PRIOR PROVISIONS

A prior section 5684, act Aug. 16, 1954, ch. 736, 68A Stat. 699, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859. See section 5687 of this title and criminal and civil penalties of subtitle F of this title.

AMENDMENTS

1989—Subsec. (b). Pub. L. 101–239 substituted ''6665'' for ''6662'' in heading and ''6665(a)'' for ''6662(a)'' in text.

1984—Subsec. (b). Pub. L. 98–369, § 714(h)(1), substituted in heading ''6662'' for ''6660'' and in text ''6662(a)'' for ''6660(a)''.

Pub. L. 98–369, § 722(a)(5), substituted ''subsection (a)'' for ''subsections (a) and (b)''.

1981—Subsec. (b). Pub. L. 97–34, § 724(b)(4)(A), redesignated subsec. (c) as (b). Former subsec. (b), which related to penalties for failure to make deposit of taxes, was struck out.

Subsec. (c). Pub. L. 97–34, § 724(b)(4), redesignated subsec. (d) as (c), added par. (4), and redesignated pars. (5) and (6) as (4) and (5), respectively. Former subsec. (c) redesignated (b).

Pub. L. 97–34, § 722(a)(3), substituted ''6660'' for ''6659'' in heading and text.

Subsec. (d). Pub. L. 97–34, § 724(b)(4), redesignated subsec. (d) as (c).

1969—Subsec. (d)(2). Pub. L. 91–172 inserted ''or pay tax'' after ''tax return''.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–239 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7721(d) of Pub. L. 101–239, set out as a note under section 461 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 714(h)(1) of Pub. L. 98–369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248, to which such amendment relates, see section 715 of Pub. L. 98–369, set out as a note under section 31 of this title.

Amendment by section 722(a)(5) of Pub. L. 98–369 effective as if included in the provisions of the Technical Corrections Act of 1984, Pub. L. 97–448, to which such amendment relates, see section 722(a)(6) of Pub. L. 98–369, set out as a note under section 172 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 722(a)(4) of Pub. L. 97–34 provided that: ''The amendments made by this subsection [enacting section 6659 of this title and amending this section and section 5761 of this title] shall apply to returns filed after December 31, 1981.''

Amendment by section 724(b)(4) of Pub. L. 97–34 applicable to returns filed after Aug. 13, 1981, see section 724(c) of Pub. L. 97–34, set out as a note under section 6656 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–172 applicable with respect to tax returns the date prescribed by law for filing of which is after Dec. 31, 1969, see section 943(d) of Pub. L. 91–172, set out as a note under section 6651 of this title.

§ 5685. Penalty and forfeiture relating to possession of devices for emitting gas, smoke, etc., explosives and firearms, when violating liquor laws

(a) Penalty for possession of devices for emitting gas, smoke, etc.

Whoever, when violating any law of the United States, or of any possession of the United States, or of the District of Columbia, in regard to the manufacture, taxation, or transportation of or traffic in distilled spirits, wines, or beer, or when aiding in any such violation, has in his possession or in his control any device capable of causing emission of gas, smoke, or fumes, and which may be used for the purpose of hindering, delaying, or preventing pursuit or capture, any explosive, or any firearm (as defined in section 5845), except a machine gun, or a shotgun having a barrel or barrels less than 18 inches in length, or a rifle having a barrel or barrels less than 16 inches in length, shall be fined not more than $5,000, or imprisoned not more than 10 years, or both, and all persons engaged in any such violation or in aiding in any such violation shall be held to be in possession or control of such device, firearm, or explosive.

(b) Penalty for possession of machine gun, etc.

Whoever, when violating any such law, has in his possession or in his control a machine gun,

or any shotgun having a barrel or barrels less than 18 inches in length, or a rifle having a barrel or barrels less than 16 inches in length, shall be imprisoned not more than 20 years; and all persons engaged in any such violation or in aiding in any such violation shall be held to be in possession and control of such machine gun, shotgun, or rifle.

(c) Forfeiture of firearms, devices, etc.

Every such firearm or device for emitting gas, smoke, or fumes, and every such explosive, machine gun, shotgun, or rifle, in the possession or control of any person when violating any such law, shall be seized and shall be forfeited and disposed of in the manner provided by section 5872.

(d) Definition of machine gun

As used in this section the term ''machine gun'' means a machine gun as defined in section 5845(b).

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1411; amended Pub. L. 86–478, § 4, June 1, 1960, 74 Stat. 150; Pub. L. 94–455, title XIX, § 1905(a)(23), (c)(6), Oct. 4, 1976, 90 Stat. 1821, 1823.)

PRIOR PROVISIONS

A prior section 5685, act Aug. 16, 1954, ch. 736, 68A Stat. 699, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–455, § 1905(a)(23)(A), (c)(6), struck out ''Territory or'' after ''United States, or of any'' and substituted ''section 5845'' for ''section 5848''.

Subsec. (c). Pub. L. 94–455, § 1905(a)(23)(B), substituted ''section 5872'' for ''section 5862''.

Subsec. (d). Pub. L. 94–455, § 1905(a)(23)(C), substituted ''means a machinegun as defined in section 5845(b)'' for ''means any weapon which shoots, or is designed to shoot, automatically or semiautomatically, more than one shot, without manual reloading, by a single function of the trigger''.

1960—Subsecs. (a), (b). Pub. L. 86–478 substituted ''shotgun having a barrel or barrels less than 18 inches in length, or a rifle having a barrel or barrels less than 16 inches in length'' for ''shotgun or rifle having a barrel or barrels less than 18 inches in length''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by 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 OF 1960 AMENDMENT

Amendment by Pub. L. 86–478 effective on first day of first month which begins more than 10 days after June 1, 1960, see section 5 of Pub. L. 86–478.

§ 5686. Penalty for having, possessing, or using liquor or property intended to be used in violating provisions of this chapter

(a) General

It shall be unlawful to have or possess any liquor or property intended for use in violating any provision of this chapter or regulations issued pursuant thereto, or which has been so used, and every person so having or possessing or using such liquor or property, shall be fined not more than $5,000, or imprisoned not more than 1 year, or both.

(b) Cross reference

For seizure and forfeiture of liquor and property had, possessed, or used in violation of subsection (a), see section 7302.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1411.)

PRIOR PROVISIONS

A prior section 5686, act Aug. 16, 1954, ch. 736, 68A Stat. 700, consisted in subsecs. (b) and (c) of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

Prior section 5686(a) related to offenses as to operation of industrial alcohol or denaturing plants or unlawful withdrawal of taxable alcohol. See section 5687 of this title.

§ 5687. Penalty for offenses not specifically covered

Whoever violates any provision of this chapter or regulations issued pursuant thereto, for which a specific criminal penalty is not prescribed by this chapter, shall be fined not more than $1,000, or imprisoned not more than 1 year, or both, for each such offense.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1412.)

PRIOR PROVISIONS

A prior section 5687, act Aug. 16, 1954, ch. 736, 68A Stat. 700, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

Prior section 5687 also related to forfeitures applicable to distillers, rectifiers, and wholesale liquor dealers for offenses not specifically covered. See sections 7301 and 7302 of this title.

Provisions similar to those comprising this section were contained in prior sections 5602, 5608(c), 5612 to 5619, 5627, 5628, 5630, 5631, 5643, 5684(a) and 5686(a), act Aug. 16, 1954, ch. 736, 68A Stat. 683, 685, 686, 689, 692, 693, 699, 700, prior to the general revision of this chapter by Pub. L. 85–859.

§ 5688. Disposition and release of seized property

(a) Forfeiture

(1) Delivery

All distilled spirits, wines, and beer forfeited, summarily or by order of court, under any law of the United States, shall be delivered to the Administrator of General Services to be disposed of as hereinafter provided.

(2) Disposal

The Administrator of General Services shall dispose of all distilled spirits, wines, and beer which have been delivered to him pursuant to paragraph (1)—

(A) by delivery to such Government agencies as, in his opinion, have a need for such distilled spirits, wines, or beer for medicinal, scientific, or mechanical purposes, or for any other official purpose for which appropriated funds may be expended by a Government agency; or

(B) by gifts to such eleemosynary institutions as, in his opinion, have a need for such distilled spirits, wines, or beer for medicinal purposes; or

(C) by destruction.

(3) Limitation on disposal

Except as otherwise provided by law, no distilled spirits, wines, or beer which have been

seized under any law of the United States may be disposed of in any manner whatsoever except after forfeiture and as provided in this subsection.

(4) Regulations

The Administrator of General Services is authorized to make all rules and regulations necessary to carry out the provisions of this subsection.

(5) Remission or mitigation of forfeitures

Nothing in this section shall affect the authority of the Secretary, under the customs or internal revenue laws, to remit or mitigate the forfeiture, or alleged forfeiture, of such distilled spirits, wines, or beer, or the authority of the Secretary, to compromise any civil or criminal case in respect of such distilled spirits, wines, or beer prior to commencement of suit thereon, or the authority of the Secretary to compromise any claim under the customs laws in respect to such distilled spirits, wines, or beer.

(b) Distraint or judicial process

Except as provided in section 5243, all distilled spirits sold by order of court, or under process of distraint, shall be sold subject to tax; and the purchaser shall immediately, and before he takes possession of said spirits, pay the tax thereon, pursuant to the applicable provisions of this chapter and in accordance with regulations to be prescribed by the Secretary.

(c) Release of seized vessels or vehicles by courts

Notwithstanding any provisions of law relating to the return on bond of any vessel or vehicle seized for the violation of any law of the United States, the court having jurisdiction of the subject matter may, in its discretion and upon good cause shown by the United States, refuse to order such return of any such vessel or vehicle to the claimant thereof. As used in this subsection, the word ''vessel'' includes every description of watercraft used, or capable of being used, as a means of transportation in water or in water and air; and the word ''vehicle'' includes every animal and description of carriage or other contrivance used, or capable of being used, as a means of transportation on land or through the air.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1412; amended Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5688, act Aug. 16, 1954, ch. 736, 68A Stat. 701, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

1976—Subsecs. (a)(5), (b). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

[§ 5689. Repealed. Pub. L. 94–455, title XIX, § 1905(b)(2)(E)(i), Oct. 4, 1976, 90 Stat. 1822]

Section, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1413, provided for penalty and forfeiture for tampering with a stamp machine.

A prior section 5689, act Aug. 16, 1954, ch. 736, 68A Stat. 702, related to penalty and forfeiture for tampering with a stamp machine, prior to the general revision of this chapter by Pub. L. 85–859.

EFFECTIVE DATE OF REPEAL

Repeal 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 an Effective Date of 1976 Amendment note under section 5005 of this title.

§ 5690. Definition of the term "person"

The term ''person'', as used in this subchapter, includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(Added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1413.)

PRIOR PROVISIONS

A prior section 5690, act Aug. 16, 1954, ch. 736, 68A Stat. 702, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85–859.

[PART V—REPEALED]

PRIOR PROVISIONS

A prior part V consisted of sections 5691 to 5693, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

[§ 5691. Repealed. Pub. L. 109–59, title XI, § 11125(b)(19)(A), Aug. 10, 2005, 119 Stat. 1956]

Section, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1413; amended Pub. L. 96–39, title VIII, § 807(a)(60), July 26, 1979, 93 Stat. 290; Pub. L. 98–369, div. A, title IV, § 451(b)(3), July 18, 1984, 98 Stat. 819; Pub. L. 100–203, title X, § 10512(a)(1)(B)(i), (ii), Dec. 22, 1987, 101 Stat. 1330–447, 1330–448, related to penalties for nonpayment of special taxes.

PRIOR PROVISIONS

A prior section 5691, act Aug. 16, 1954, ch. 736, 68A Stat. 702, related to penalties for willful nonpayment of special taxes and forfeitures for nonpayment of special taxes relating to liquors, prior to the general revision of this chapter by Pub. L. 85–859.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 2008, but inapplicable to taxes imposed for periods before such date, see section 11125(c) of Pub. L. 109–59, set out as an Effective Date of 2005 Amendment note under section 5002 of this title.

[§ 5692. Repealed. Pub. L. 90–618, title II, § 206(a), Oct. 22, 1968, 82 Stat. 1235]

Section, added Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1413, set forth a cross reference to section 7273(a), relating to penalties for failure to post special tax stamps.

A prior section 5692, act Aug. 16, 1954, ch. 736, 68A Stat. 703, related to penalty relating to records of retail liquor dealers, prior to the general revision of this chapter by Pub. L. 85–859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

A prior section 5693, act Aug. 16, 1954, ch. 736, 68A Stat. 703, consisted of provisions similar to those comprising section 5692, prior to the general revision of this chapter by Pub. L. 85–859.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 22, 1968, see section 207 of Pub. L. 90–618, set out as an Effective Date note under section 5801 of this title.

CHAPTER 52—TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

Subchapter		Sec.[1]
A.	Definitions; rate and payment of tax; exemption from tax; and refund and drawback of tax	5701
B.	Qualification requirements for manufacturers and importers of tobacco products and cigarette papers and tubes, and export warehouse proprietors	5711
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AMENDMENTS

1997—Pub. L. 105–33, title IX, § 9302(g)(3)(C), (h)(2)(D), Aug. 5, 1997, 111 Stat. 673, 674, amended chapter heading generally, substituting ''TOBACCO PRODUCTS'' for ''CIGARS, CIGARETTES, SMOKELESS TOBACCO, PIPE TOBACCO,'', and inserted ''and importers'' after ''manufacturers'' in item for subchapter B.

1988—Pub. L. 100–647, title V, § 5061(c)(3), Nov. 10, 1988, 102 Stat. 3680, inserted ''PIPE TOBACCO,'' after ''SMOKELESS TOBACCO,'' in chapter heading.

1987—Pub. L. 100–203, title X, § 10512(f)(2), Dec. 22, 1987, 101 Stat. 1330–449, added item for subchapter D and redesignated items for former subchapters D, E, and F as E, F, and G, respectively.

1986—Pub. L. 99–272, title XIII, § 13202(b)(1), Apr. 7, 1986, 100 Stat. 311, inserted ''SMOKELESS TOBACCO,'' after ''CIGARETTES,'' in chapter heading.

1976—Pub. L. 94–455, title XXI, § 2128(d)(2), Oct. 4, 1976, 90 Stat. 1921, substituted ''manufacturers and importers'' for ''manufacturers'' in item for subchapter D.

1965—Pub. L. 89–44, title V, § 502(b)(1), (2), June 21, 1965, 79 Stat. 150, struck out ''TOBACCO,'' from chapter heading, reference to dealers in tobacco materials from heading of subchapter B, heading of subchapter D and redesignated subchapters E, F and G as D, E and F respectively, and struck out in heading of subchapter D (as redesignated) a reference to dealers in tobacco materials.

1958—Pub. L. 85–859, title II, § 202, Sept. 2, 1958, 72 Stat. 1414, substituted ''manufacturers of tobacco products and cigarette papers and tubes, export warehouse proprietors, and'' for ''manufacturers of articles and'' in heading of subchapters B and E, ''manufacturers and importers of tobacco products and cigarette papers and tubes and export warehouse proprietors'' for ''manufacturers of articles'' in heading of subchapter C, and ''Penalties and forfeitures'' for ''Fines, penalties and forfeitures'' in heading of subchapter G.

Subchapter A—Definitions; Rate and Payment of Tax; Exemption From Tax; and Refund and Drawback of Tax

Sec.	
5701.	Rate of tax.
5702.	Definitions.
5703.	Liability for tax and method of payment.
5704.	Exemption from tax.
5705.	Credit, refund, or allowance of tax.
5706.	Drawback of tax.
[5707.	Repealed.]
5708.	Losses caused by disaster.

[1] Section numbers editorially supplied.

AMENDMENTS

1965—Pub. L. 89–44, title V, § 501(g), title VIII, § 808(c)(2), June 21, 1965, 79 Stat. 150, 165, struck out item 5707 ''Floor stocks refund on cigarettes'' and inserted ''Credit'' before ''refund'' in item 5705.

1958—Pub. L. 85–859, title II, § 202, Sept. 2, 1958, 72 Stat. 1414, added item 5708.

§ 5701. Rate of tax

(a) Cigars

On cigars, manufactured in or imported into the United States, there shall be imposed the following taxes:

(1) Small cigars

On cigars, weighing not more than 3 pounds per thousand, $50.33 per thousand;

(2) Large cigars

On cigars weighing more than 3 pounds per thousand, a tax equal to 52.75 percent of the price for which sold but not more than 40.26 cents per cigar.

Cigars not exempt from tax under this chapter which are removed but not intended for sale shall be taxed at the same rate as similar cigars removed for sale.

(b) Cigarettes

On cigarettes, manufactured in or imported into the United States, there shall be imposed the following taxes:

(1) Small cigarettes

On cigarettes, weighing not more than 3 pounds per thousand, $50.33 per thousand;

(2) Large cigarettes

On cigarettes, weighing more than 3 pounds per thousand, $105.69 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(c) Cigarette papers

On cigarette papers, manufactured in or imported into the United States, there shall be imposed a tax of 3.15 cents for each 50 papers or fractional part thereof; except that, if cigarette papers measure more than 6½ inches in length, they shall be taxable at the rate prescribed, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette paper.

(d) Cigarette tubes

On cigarette tubes, manufactured in or imported into the United States, there shall be imposed a tax of 6.30 cents for each 50 tubes or fractional part thereof, except that if cigarette tubes measure more than 6½ inches in length, they shall be taxable at the rate prescribed, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette tube.

(e) Smokeless tobacco

On smokeless tobacco, manufacturered[1] in or imported into the United States, there shall be imposed the following taxes:

[1] So in original. Probably should be ''manufactured''.