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 com-

ply 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

Pub. L. 90–615, §2(b), Oct. 21, 1968, 82 Stat. 1210, 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