§ 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of distilled spirits, wines, and beer to which this part applies (other than subsection (b) of this section) which are withdrawn under bond for deferred payment of tax, the last day for payment of such tax shall be the 14th day after the last day of the semimonthly period during which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 Sec-

*So in original. Does not conform to section catchline.
(D) Exception for articles destined for export

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

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

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

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

(A) In general

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

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

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

In the case of any taxpayer who reasonably expects to be liable for not more than $1,000 in taxes imposed with respect to 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 $1,000 in such taxes in the preceding calendar year, the last day for the payment of tax on withdrawals, removals, and entries (and articles brought into the United States from Puerto Rico) shall be the 14th day after the last day of the calendar year.

(B) No application after limit exceeded

(i) Exceeds $50,000 limit

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

(ii) Exceeds $1,000 limit

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

(C) Calendar quarter

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

(5) Special rule for tax due in September

(A) In general

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

(B) Safe harbor

The requirement of subparagraph (A) shall be treated as met if the amount paid not later than September 29 is not less than 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 in-
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 in section 1563, except that “more than 50 percent” shall be substituted for “at least 80 percent” each place it appears in such subsection.

(B) Controlled groups which include non-incorporated persons

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


PRIOR PROVISIONS

A prior section 5061, Aug. 16, 1954, ch. 736, 68 A 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), Aug. 16, 1954, ch. 736, 68 A Stat. 597, prior to the general revision of this chapter by Pub. L. 85–859.

AMENDMENTS

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


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. (5) substituted “paragraph (5)” for “paragraph (4)”.

1996—Subsec. (b)(3). Pub. L. 104–188 substituted “section 5681(f),” for “section 5691(e),”.

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)(5). Pub. L. 103–465, §172(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.


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 5626(a)(2), was struck out.


1976—Subsec. (a). Pub. L. 94–455, §§1906(b)(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.”


EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–113, div. Q, title III, §332(c), Dec. 18, 2015, 129 Stat. 3106, provided that: “The amendments made by this section [amending this section and sections 5173, 5531, 5401, and 5551 of this title] shall apply to any calendar quarters beginning more than 1 year after the date of the enactment of this Act [Dec. 18, 2015].”

EFFECTIVE DATE OF 2005 AMENDMENT


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. 101–308, title XI, to which such amendment relates.
see section 1702(1) of Pub. L. 104–188, set out as a note under section 38 of this title.

**Effective Date of 1994 Amendment**

**Effective Date of 1994 Amendment**

**Effective Date of 1990 Amendment**

**Effective Date of 1988 Amendment**

**Effective Date of 1986 Amendments**


"(1) In general.—Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 5054, 5070, 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 5701(c)(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 5612(a) 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."
§ 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 of 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, 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.


Prior Provisions

A prior section 5062, act Aug. 16, 1964, 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. 85–459.

Amendments

1964—Subsec. (b). Pub. L. 88–369 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”.


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 858(g)(1) of Pub. L. 89–44, set out as a note under section 5008 of this title.

Effective Date of 1964 Amendment

Pub. L. 88–539, §2, Aug. 31, 1964, 78 Stat. 746, 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].”