

(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.)

Editorial Notes

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)”.

Statutory Notes and Related Subsidiaries

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

Pub. L. 95-176, §7, Nov. 14, 1977, 91 Stat. 1367, 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.)

Editorial Notes

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)”.

Statutory Notes and Related Subsidiaries

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

Pub. L. 89-44, title VIII, §805(g)(2), June 21, 1965, 79 Stat. 162, 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.