

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.)

Editorial Notes

REFERENCES IN TEXT

The Federal Alcohol Administration Act, referred to in subsec. (b), is act Aug. 29, 1935, ch. 814, 49 Stat. 977, 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.

Statutory Notes and Related Subsidiaries

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.

Statutory Notes and Related Subsidiaries

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.
5045.	Cross references.

Editorial Notes

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. Subject to subsection (h), 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 16 percent of alcohol by volume, \$1.07 per wine gallon;

(2) On still wines containing more than 16 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, 22.6 cents per wine gallon.

(c) Credit

(1) Allowance of credit

(A) In general

There shall be allowed as a credit against any tax imposed by this title (other than chapters 2, 21, and 22) an amount equal to the sum of—

(i) \$1 per wine gallon on the first 30,000 wine gallons of wine, plus

(ii) 90 cents per wine gallon on the first 100,000 wine gallons of wine to which clause (i) does not apply, plus

(iii) 53.5 cents per wine gallon on the first 620,000 wine gallons of wine to which clauses (i) and (ii) do not apply,

which are produced by the producer and removed during the calendar year for consumption or sale, or which are imported by the importer into the United States during the calendar year but only if the importer is an electing importer under paragraph (6) and the wine gallons of wine have been assigned to the importer pursuant to such paragraph.

(B) Adjustment of credit for hard cider

In the case of wine described in subsection (b)(6), subparagraph (A) of this paragraph shall be applied—

(i) in clause (i) of such subparagraph, by substituting “6.2 cents” for “\$1”,

(ii) in clause (ii) of such subparagraph, by substituting “5.6 cents” for “90 cents”, and

(iii) in clause (iii) of such subparagraph, by substituting “3.3 cents” for “53.5 cents”.

(2) 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.

(3)¹ Controlled groups

Rules similar to rules of section 5051(a)(5) shall apply for purposes of this subsection.

(4) Denial of deduction

Any deduction under subtitle A with respect to any tax against which a credit is allowed

¹ See Codification note below.