

Subsec. (a)(1)(A)(i)(II). Pub. L. 116-260, §106(b)(3)(A), inserted “but only if the importer is an electing importer under paragraph (4) and the barrels have been assigned to the importer pursuant to such paragraph” after “during the calendar year”.

Subsec. (a)(2)(A). Pub. L. 116-260, §106(b)(2), inserted “\$3.50 a barrel” before “rate” in heading and substituted “\$3.50” for “\$7 (\$3.50 in the case of beer removed after December 31, 2017, and before January 1, 2021)” in text.

Subsec. (a)(4)(A). Pub. L. 116-260, §106(b)(3)(B)(i), substituted “paragraph (1)(A)” for “paragraph (1)(C)”.

Subsec. (a)(4)(B). Pub. L. 116-260, §106(b)(3)(B)(ii), substituted “The Secretary, after consultation with the Secretary of the Department of Homeland Security,” for “The Secretary” in introductory provisions.

Subsec. (a)(5). Pub. L. 116-260, §106(b)(4), substituted “paragraph (1)(A)(i)” for “paragraph (1)(C)(i)” wherever appearing.

Subsec. (a)(5)(C). Pub. L. 116-260, §110(a), substituted “under a license” for “marketed under a similar brand, license”.

Subsec. (a)(6). Pub. L. 116-260, §107(b)(1), added par. (6).

2019—Subsec. (a)(1)(C), (2)(A). Pub. L. 116-94 substituted “January 1, 2021” for “January 1, 2020” in introductory provisions of subsec. (a)(1)(C) and in subsec. (a)(2)(A).

2017—Subsec. (a)(1). Pub. L. 115-97, §13802(a), amended par. (1) generally. Prior to amendment, text read as follows: “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.”

Subsec. (a)(1)(C)(i)(II). Pub. L. 115-97, §13802(c)(1), inserted “but only if the importer is an electing importer under paragraph (4) and the barrels have been assigned to the importer pursuant to such paragraph” after “during the calendar year”.

Subsec. (a)(2)(A). Pub. L. 115-97, §13802(b), in heading, struck out “\$7 a barrel” before “rate” and in text, inserted “(\$3.50 in the case of beer removed after December 31, 2017, and before January 1, 2020)” after “\$7”.

Subsec. (a)(2)(B), (C). Pub. L. 115-97, §13802(d)(1), re-designated subpar. (C) as (B) and struck out former subpar. (B) which related to application of barrel quantity to controlled groups.

Subsec. (a)(4). Pub. L. 115-97, §13802(c)(2), added par. (4).

Subsec. (a)(5). Pub. L. 115-97, §13802(d)(2), added par. (5).

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”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2020 AMENDMENT

Pub. L. 116-260, div. EE, title I, §106(b)(5), Dec. 27, 2020, 134 Stat. 3042, provided that: “The amendments made by this subsection [amending this section] shall apply to beer removed after December 31, 2020.”

Pub. L. 116-260, div. EE, title I, §107(b)(2), Dec. 27, 2020, 134 Stat. 3047, provided that: “The amendment made by this subsection [amending this section] shall apply to beer removed after December 31, 2022.”

Amendment by section 110(a) of Pub. L. 116-260 applicable to beer, wine, and distilled spirits removed after Dec. 31, 2020, see section 110(d) of div. EE of Pub. L. 116-260, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116-94, div. Q, title I, §144(b)(2), Dec. 20, 2019, 133 Stat. 3235, provided that: “The amendments made by this subsection [amending this section] shall apply to beer removed after December 31, 2019.”

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-97, title I, §13802(e), Dec. 22, 2017, 131 Stat. 2172, provided that: “The amendments made by this section [amending this section] shall apply to beer removed after December 31, 2017.”

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

Pub. L. 94-529, §2, Oct. 17, 1976, 90 Stat. 2486, 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 mate-

rial) 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.)

Editorial Notes

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.

Statutory Notes and Related Subsidiaries

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