

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 material) 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 or 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 under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported beer.

**(2) Other rules to apply**

Rules similar to the rules of paragraphs (2) and (3) of section 5362(e) shall apply for purposes of this subsection.

**(h) Removals for destruction**

Subject to such regulations as the Secretary may prescribe, beer may be removed from the brewery without payment of tax for destruction.

**(i) Removal as supplies for certain vessels and aircraft**

For exemption as to supplies for certain vessels and aircraft, see section 309 of the Tariff Act of 1930, as amended (19 U.S.C. 1309).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1334; amended Pub. L. 89-44, title VIII, §807(b), June 21, 1965, 79 Stat. 164; Pub. L. 91-673, §2, Jan. 12, 1971, 84 Stat. 2056; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-458, §2(b)(1), Oct. 14, 1978, 92 Stat. 1255; Pub. L. 105-34, title XIV, §§1414(b), 1418(a), 1419(a), Aug. 5, 1997, 111 Stat. 1047-1049.)

**Editorial Notes**

**PRIOR PROVISIONS**

A prior section 5053, 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**

1997—Subsec. (f). Pub. L. 105-34, §1414(b), added subsec. (f). Former subsec. (f) redesignated (i).

Subsec. (g). Pub. L. 105-34, §1418(a), added subsec. (g).

Subsec. (h). Pub. L. 105-34, §1419(a), added subsec. (h).

Subsec. (i). Pub. L. 105-34, §1414(b), redesignated subsec. (f) as (i).

1978—Subsecs. (e), (f). Pub. L. 95-458 added subsec. (e) and redesignated former subsec. (e) as (f).

1976—Subsecs. (a) to (d). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

1971—Subsecs. (d), (e). Pub. L. 91-673 added subsec. (d) and redesignated former subsec. (d) as (e).

1965—Subsec. (a). Pub. L. 89-44 struck out “to a foreign country” after “export”.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 1997 AMENDMENT**

Pub. L. 105-34, title XIV, §1414(d), Aug. 5, 1997, 111 Stat. 1047, provided that: “The amendments made by this section [amending this section and sections 5056 and 5222 of this title] shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act [Aug. 5, 1997].”

Pub. L. 105-34, title XIV, §1418(b), Aug. 5, 1997, 111 Stat. 1049, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act [Aug. 5, 1997].”

Pub. L. 105-34, title XIV, §1419(b), Aug. 5, 1997, 111 Stat. 1049, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act [Aug. 5, 1997].”

**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 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.

**EFFECTIVE DATE OF 1965 AMENDMENT**

Amendment by Pub. L. 89-44 effective July 1, 1965, see section 807(c) of Pub. L. 89-44, set out as a note under section 5002 of this title.

## § 5054. Determination and collection of tax on beer

### (a) Time of determination

#### (1) Beer produced in the United States; certain imported beer

Except as provided in paragraph (3), the tax imposed by section 5051 on beer produced in the United States, or imported into the United States and transferred to a brewery free of tax under section 5418, shall be determined at the time it is removed for consumption or sale, and shall be paid by the brewer thereof in accordance with section 5061.

#### (2) Beer imported into the United States

Except as provided in paragraph (4), the tax imposed by section 5051 on beer imported into the United States and not transferred to a brewery free of tax under section 5418 shall be determined at the time of the importation thereof, or, if entered for warehousing, at the time of removal from the 1st such warehouse.

#### (3) Illegally produced beer

The tax on any beer produced in the United States shall be due and payable immediately upon production unless—

(A) such beer is produced in a brewery qualified under the provisions of subchapter G, or

(B) such production is exempt from tax under section 5053(e) (relating to beer for personal or family use).

#### (4) Unlawfully imported beer

Beer smuggled or brought into the United States unlawfully shall, for purposes of this chapter, be held to be imported into the United States, and the internal revenue tax shall be due and payable at the time of such importation.

### (b) Tax on returned beer

Beer which has been removed for consumption or sale and is thereafter returned to the brewery shall be subject to all provisions of this chapter relating to beer prior to removal for consumption or sale, including the tax imposed by section 5051. The tax on any such returned beer which is again removed for consumption or sale shall be determined and paid without respect to the tax which was determined at the time of prior removal of the beer for consumption or sale.

### (c) Applicability of other provisions of law

All administrative and penal provisions of this title, insofar as applicable, shall apply to any tax imposed by section 5051.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1334; amended Pub. L. 94-455, title XIX, §§1905(a)(5), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1818, 1834; Pub. L. 95-458, §2(b)(2)(B), Oct. 14, 1978, 92 Stat. 1256; Pub. L. 99-509, title VIII, §8011(b)(2), Oct. 21, 1986, 100 Stat. 1953; Pub. L. 100-647, title I, §1018(u)(19), Nov. 10, 1988, 102 Stat. 3591; Pub. L. 105-206, title VI, §6014(a)(1), (2), July 22, 1998, 112 Stat. 820; Pub. L. 115-141, div. U, title IV, §401(a)(239), Mar. 23, 2018, 132 Stat. 1195.)

## Editorial Notes

### PRIOR PROVISIONS

A prior section 5054, act Aug. 16, 1954, ch. 736, 68A Stat. 613, 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 subsecs. (a)(1), (2) and (b) to (d) of this section were contained in prior sections 5055 and 5057(a), act Aug. 16, 1954, ch. 736, 68A Stat. 613, prior to the general revision of this chapter by Pub. L. 85-859.

### AMENDMENTS

2018—Subsec. (a)(3)(B). Pub. L. 115-141 substituted “section” for “sections”.

1998—Subsec. (a)(1). Pub. L. 105-206, §6014(a)(1), in heading inserted “; certain imported beer” after “United States” and in text inserted “, or imported into the United States and transferred to a brewery free of tax under section 5418,” after “United States”.

Subsec. (a)(2). Pub. L. 105-206, §6014(a)(2), inserted “and not transferred to a brewery free of tax under section 5418” after “United States”.

1988—Subsec. (a)(2). Pub. L. 100-647 added period at end.

1986—Subsec. (a)(2). Pub. L. 99-509 substituted “if entered for warehousing, at the time of removal from the 1st such warehouse” for “if entered into customs custody, at the time of removal from such custody, and shall be paid under such regulations as the Secretary shall prescribe.”.

1978—Subsec. (a)(3). Pub. L. 95-458 inserted provision excluding from tax the beer exempt from tax under section 5053(e).

1976—Subsec. (a)(2). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsecs. (c), (d). Pub. L. 94-455, §1905(a)(5), redesignated subsec. (d) as (c) and struck out former subsec. (c) respecting stamps or other devices as evidence of payment of tax.

## Statutory Notes and Related Subsidiaries

### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates (see section 1421(c) of Pub. L. 105-34 set out as an Effective Date note under section 5418 of this title), see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-509 applicable to articles imported, entered for warehousing, or brought into the United States or a foreign trade zone after Dec. 15, 1986, see section 8011(c) of Pub. L. 99-509, set out as a note under section 5061 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

Amendment by section 1905(a)(5) of 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.