

(1) Wholesale dealer in liquors

The term “wholesale dealer in liquors” means any dealer (other than a wholesale dealer in beer) who sells, or offers for sale, distilled spirits, wines, or beer, to another dealer.

(2) Wholesale dealer in beer

The term “wholesale dealer in beer” means any dealer who sells, or offers for sale, beer, but not distilled spirits or wines, to another dealer.

(3) Dealer

The term “dealer” means any person who sells, or offers for sale, any distilled spirits, wines, or beer.

(4) Presumption in case of sale of 20 wine gallons or more

The sale, or offer for sale, of distilled spirits, wines, or beer, in quantities of 20 wine gallons or more to the same person at the same time, shall be presumptive evidence that the person making such sale, or offer for sale, is engaged in or carrying on the business of a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be. Such presumption may be overcome by evidence satisfactorily showing that such sale, or offer for sale, was made to a person other than a dealer.

(d) Cross references

(1) For provisions requiring proprietors of distilled spirits plants to keep records and submit reports of receipts and dispositions of distilled spirits, see section 5207.

(2) For penalty for violation of subsection (a), see section 5603.

(3) For provisions relating to the preservation and inspection of records, and entry of premises for inspection, see section 5123.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1342, §5114; amended Pub. L. 94-455, title XIX, §§1905(c)(1), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1823, 1834; renumbered §5121 and amended Pub. L. 109-59, title XI, §11125(b)(5), Aug. 10, 2005, 119 Stat. 1954; Pub. L. 110-172, §11(a)(31), Dec. 29, 2007, 121 Stat. 2487.)

Editorial Notes**PRIOR PROVISIONS**

A prior section 5121, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1343; amended Pub. L. 94-455, title XIX, §1905(a)(9), (b)(3)(C), Oct. 4, 1976, 90 Stat. 1819, 1822; Pub. L. 100-203, title X, §10512(c), Dec. 22, 1987, 101 Stat. 1330-448, related to special tax on retail dealers in liquors or beer, prior to repeal by Pub. L. 109-59, title XI, §11125(a)(1)(D), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5121, act Aug. 16, 1954, ch. 736, 68A Stat. 621, related to tax on retail dealers in liquors or beer, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2007—Pub. L. 110-172, which directed amendment of this title by redesignating section 5432 as section 5121, was executed by making correction to amendment by Pub. L. 109-59, §11125(b)(5)(B)(i). See 2005 Amendment note below.

2005—Pub. L. 109-59, §11125(b)(5)(B)(i), which directed amendment of section 5114 of this title by substituting “§5432. Recordkeeping by wholesale dealers” for “§5114.

Records” in section catchline, was executed by substituting “§5121. Recordkeeping by wholesale dealers” for “§5114. Records”, to reflect the probable intent of Congress and the subsequent amendment by Pub. L. 110-172. See 2007 Amendment note above.

Pub. L. 109-59, §11125(b)(5)(A), transferred section 5114 of this title to this subpart so as to appear after subpart analysis.

Subsecs. (c), (d). Pub. L. 109-59, §11125(b)(5)(B)(ii), added subsec. (c) and redesignated former subsec. (c) as (d).

Subsec. (d)(3). Pub. L. 109-59, §11125(b)(5)(C), substituted “section 5123” for “section 5146”.

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

Subsec. (b). Pub. L. 94-455, §§1905(c)(1), 1906(b)(13)(A), struck out “or Territory” after “a State”, “Territories” after “States,” and “or his delegate” after “Secretary”.

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 1976 AMENDMENT

Amendment by section 1905(c)(1) 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.

§ 5122. Recordkeeping by retail dealers**(a) Receipts**

Every retail dealer in liquors and every retail dealer in beer shall provide and keep in his place of business a record in book form of all distilled spirits, wines, and beer received, showing the quantity thereof and from whom and the dates received, or shall keep all invoices of, and bills for, all distilled spirits, wines, and beer received.

(b) Dispositions

When he deems it necessary for law enforcement purposes or the protection of the revenue, the Secretary may by regulations require retail dealers in liquors and retail dealers in beer to keep records of the disposition of distilled spirits, wines, or beer, in such form or manner and of such quantities as the Secretary may prescribe.

(c) Retail dealers

For purposes of this section—

(1) Retail dealer in liquors

The term “retail dealer in liquors” means any dealer (other than a retail dealer in beer or a limited retail dealer) who sells, or offers for sale, distilled spirits, wines, or beer, to any person other than a dealer.

(2) Retail dealer in beer

The term “retail dealer in beer” means any dealer (other than a limited retail dealer) who sells, or offers for sale, beer, but not distilled spirits or wines, to any person other than a dealer.

(3) Limited retail dealer

The term “limited retail dealer” means any fraternal, civic, church, labor, charitable, be-

nevolent, or ex-servicemen's organization making sales of distilled spirits, wine or beer on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it, or any person making sales of distilled spirits, wine or beer to the members, guests, or patrons of bona fide fairs, reunions, picnics, carnivals, or other similar outings, if such organization or person is not otherwise engaged in business as a dealer.

(4) Dealer

The term "dealer" has the meaning given such term by section 5121(c)(3).

(d) Cross references

For provisions relating to the preservation and inspection of records, and entry of premises for inspection, see section 5123.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1345, §5124; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; renumbered §5122 and amended Pub. L. 109-59, title XI, §11125(b)(6), Aug. 10, 2005, 119 Stat. 1955.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5122, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1344; amended Pub. L. 94-455, title XIX, §1905(a)(10), Oct. 4, 1976, 90 Stat. 1819, defined "retail dealer in liquors", "retail dealer in beer", and "limited retail dealer", prior to repeal by Pub. L. 109-59, title XI, §11125(a)(1)(D), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5122, act Aug. 16, 1954, ch. 736, 68A Stat. 621, related to definition of retail dealers in liquors and beer, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2005—Pub. L. 109-59, §11125(b)(6)(A), (B)(i), renumbered section 5124 of this title as this section, transferred section to this subpart so as to appear after section 5121, and substituted "Recordkeeping by retail dealers" for "Records" in section catchline.

Subsec. (c), Pub. L. 109-59, §11125(b)(6)(B)(iii), added subsec. (c). Former subsec. (c) redesignated (d).

Pub. L. 109-59, §11125(b)(6)(B)(ii), substituted "section 5123" for "section 5146".

Subsec. (d), Pub. L. 109-59, §11125(b)(6)(B)(iii), redesignated subsec. (c) as (d).

1976—Subsec. (b), Pub. L. 94-455 struck out "or his delegate" after "Secretary" in two places.

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.

§ 5123. Preservation and inspection of records, and entry of premises for inspection

(a) Preservation and inspection of records

Any records or other documents required to be kept under this part or regulations issued pursuant thereto shall be preserved by the person required to keep such records or documents, as the Secretary may by regulations prescribe, and shall be kept available for inspection by any internal revenue officer during business hours.

(b) Entry of premises for inspection

The Secretary may enter during business hours the premises (including places of storage) of any dealer for the purpose of inspecting or examining any records or other documents required to be kept by such dealer under this chapter or regulations issued pursuant thereto and any distilled spirits, wines, or beer kept or stored by such dealer on such premises.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1348, §5146; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; renumbered §5123, Pub. L. 109-59, title XI, §11125(b)(7), Aug. 10, 2005, 119 Stat. 1955.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5123, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1344; amended Pub. L. 87-863, §4(a), Oct. 23, 1962, 76 Stat. 1142; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 100-647, title II, §2004(t)(3), Nov. 10, 1988, 102 Stat. 3610, related to exemptions from special tax on certain wholesale and retail dealers in liquors or beer, prior to repeal by Pub. L. 109-59, title XI, §11125(a)(1)(D), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5123, act Aug. 16, 1954, ch. 736, 68A Stat. 621, related to exemptions from tax on retail dealers of liquors or beer, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2005—Pub. L. 109-59 renumbered section 5146 of this title as this section and transferred section to this subpart so as to appear after section 5122.

1976—Pub. L. 94-455 struck out "or his delegate" after "Secretary" wherever appearing.

§ 5124. Registration by dealers

Every dealer who is subject to the record-keeping requirements under section 5121 or 5122 shall register with the Secretary such dealer's name or style, place of residence, trade or business, and the place where such trade or business is to be carried on. In the case of a firm or company, the names of the several persons constituting the same, and the places of residence, shall be so registered.

(Added Pub. L. 109-59, title XI, §11125(b)(8), Aug. 10, 2005, 119 Stat. 1955.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5124 was renumbered section 5122 of this title.

Another prior section 5124, act Aug. 16, 1954, ch. 736, 68A Stat. 622, related to recordkeeping requirements of retail dealers in liquors or beer, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5125, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1345, set out cross references, prior to repeal by Pub. L. 109-59, title XI, §11125(a)(1)(D), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective July 1, 2008, but inapplicable to taxes imposed for periods before such date, see section