

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1381; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5369, act Aug. 16, 1954, ch. 736, 68A Stat. 666, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

§ 5370. Losses

(a) General

No tax shall be collected in respect of any wines lost or destroyed while in bond, except that tax shall be collected—

(1) Theft

In the case of loss by theft, unless the Secretary shall find that the theft occurred without connivance, collusion, fraud, or negligence on the part of the proprietor or other person responsible for the tax, or the owner, consignor, consignee, bailee, or carrier, or the agents or employees of any of them; and

(2) Voluntary destruction

In the case of voluntary destruction, unless the wine was destroyed under Government supervision, or on such adequate notice to, and approval by, the Secretary as regulations shall provide.

(b) Proof of loss

In any case in which the wine is lost or destroyed, whether by theft or otherwise, the Secretary may require by regulations the proprietor of the bonded wine cellar or other person liable for the tax to file a claim for relief from the tax and submit proof as to the cause of such loss. In every case where it appears that the loss was by theft, the burden shall be on the proprietor or other person liable for the tax to establish to the satisfaction of the Secretary, that such loss did not occur as the result of connivance, collusion, fraud, or negligence on the part of the proprietor, owner, consignor, consignee, bailee, or carrier, or the agents or employees of any of them.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1381; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5370, act Aug. 16, 1954, ch. 736, 68A Stat. 666, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

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

§ 5371. Insurance coverage, etc.

Any remission, abatement, refund, or credit of, or other relief from, taxes on wines or wine

spirits authorized by law shall be allowed only to the extent that the claimant is not indemnified or recompensed for the tax.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1382.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5371, act Aug. 16, 1954, ch. 736, 68A Stat. 667, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

§ 5372. Sampling

Under regulations prescribed by the Secretary, wine may be utilized in any bonded wine cellar for testing, tasting, or sampling, free of tax.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1382; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5372, act Aug. 16, 1954, ch. 736, 68A Stat. 667, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

§ 5373. Wine spirits

(a) In general

The wine spirits authorized to be used in wine production shall be brandy or wine spirits produced in a distilled spirits plant (with or without the use of water to facilitate extraction and distillation) exclusively from—

- (1) fresh or dried fruit, or their residues,
- (2) the wine or wine residues, therefrom, or
- (3) special natural wine under such conditions as the Secretary may by regulations prescribe;

except that where, in the production of natural wine or special natural wine, sugar has been used, the wine or the residuum thereof may not be used if the unfermented sugars therein have been refermented. Such wine spirits shall not be reduced with water from distillation proof, nor be distilled, unless regulations otherwise provide, at less than 140 degrees of proof (except that commercial brandy aged in wood for a period of not less than 2 years, and barreled at not less than 100 degrees of proof, shall be deemed wine spirits for the purpose of this subsection).

(b) Withdrawal of wine spirits

(1) The proprietor of any bonded wine cellar may withdraw and receive wine spirits without payment of tax from the bonded premises of any distilled spirits plant, or from any bonded wine cellar as provided in paragraph (2), for use in the production of natural wine, for addition to concentrated or unconcentrated juice for use in wine production, or for such other uses as may be authorized in this subchapter.

(2) Wine spirits so withdrawn, and not used in wine production or as otherwise authorized in