

designated subchapter E by Pub. L. 100-203, title X, §10512(f)(1), Dec. 22, 1987, 101 Stat. 1330-449.

Another prior subchapter D, which consisted of sections 5731 and 5732 of this title, was repealed by Pub. L. 89-44, title V, §502(b)(7), June 21, 1965, 79 Stat. 151, applicable on and after Jan. 1, 1966.

AMENDMENTS

2005—Pub. L. 109-59, title XI, §11125(b)(20)(D), Aug. 10, 2005, 119 Stat. 1957, added items 5732 to 5734.

§ 5731. Imposition and rate of tax

(a) General rule

Every person engaged in business as—

- (1) a manufacturer of tobacco products,
- (2) a manufacturer of cigarette papers and tubes, or
- (3) an export warehouse proprietor,

shall pay a tax of \$1,000 per year in respect of each premises at which such business is carried on.

(b) Reduced rates for small proprietors

(1) In general

Subsection (a) shall be applied by substituting “\$500” for “\$1,000” with respect to any taxpayer the gross receipts of which (for the most recent taxable year ending before the 1st day of the taxable period to which the tax imposed by subsection (a) relates) are less than \$500,000.

(2) Controlled group rules

All persons treated as 1 taxpayer under section 5061(e)(3) shall be treated as 1 taxpayer for purposes of paragraph (1).

(3) Certain rules to apply

For purposes of paragraph (1), rules similar to the rules of subparagraphs (B) and (C) of section 448(c)(3) shall apply.

(c) Penalty for failure to register

Any person engaged in a business referred to in subsection (a) who willfully fails to pay the tax imposed by subsection (a) shall be fined not more than \$5,000, or imprisoned not more than 2 years, or both, for each such offense.

(Added Pub. L. 100-203, title X, §10512(f)(1), Dec. 22, 1987, 101 Stat. 1330-449; amended Pub. L. 109-59, title XI, §11125(b)(20)(E), Aug. 10, 2005, 119 Stat. 1957.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5731, acts Aug. 16, 1954, ch. 736, 68A Stat. 714; Sept. 2, 1958, Pub. L. 85-859, title II, §202, 72 Stat. 1423, restricted shipment and delivery of tobacco materials to shipment and delivery pursuant to regulations, prior to repeal by Pub. L. 89-44, title V, §502(b)(7), title VII, §701(d), June 21, 1965, 79 Stat. 151, 157, applicable on and after Jan. 1, 1966.

AMENDMENTS

2005—Subsecs. (c), (d). Pub. L. 109-59 redesignated subsec. (d) as (c) and struck out former subsec. (c). Text read as follows: “Rules similar to the rules of subpart G of part II of subchapter A of chapter 51 shall apply for purposes of this section.”

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

Section effective Jan. 1, 1988, see section 10512(h) of Pub. L. 100-203, set out as an Effective Date of 1987 Amendment note under section 5111 of this title.

§ 5732. Payment of tax

(a) Condition precedent to carrying on business

No person shall be engaged in or carry on any trade or business subject to tax under this subchapter until he has paid the special tax therefor.

(b) Computation

All special taxes under this subchapter shall be imposed as of on the first day of July in each year, or on commencing any trade or business on which such tax is imposed. In the former case the tax shall be reckoned for 1 year, and in the latter case it shall be reckoned proportionately, from the first day of the month in which the liability to a special tax commenced, to and including the 30th day of June following.

(c) How paid

(1) Payment by return

The special taxes imposed by this subchapter shall be paid on the basis of a return under such regulations as the Secretary shall prescribe.

(2) Stamp denoting payment of tax

After receiving a properly executed return and remittance of any special tax imposed by this subchapter, the Secretary shall issue to the taxpayer an appropriate stamp as a receipt denoting payment of the tax. This paragraph shall not apply in the case of a return covering liability for a past period.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1346, §5142; amended Pub. L. 94-455, title XIX, §1905(a)(12), Oct. 4, 1976, 90 Stat. 1820; renumbered §5732 and amended Pub. L. 109-59, title XI, §11125(b)(20)(A), (B), Aug. 10, 2005, 119 Stat. 1956; Pub. L. 110-172, §11(a)(32), Dec. 29, 2007, 121 Stat. 2487.)

Editorial Notes

PRIOR PROVISIONS

A prior section 5732, acts Aug. 16, 1954, ch. 736, 68A Stat. 714; Sept. 2, 1958, Pub. L. 85-859, title II, §202, 72 Stat. 1423, required that a dealer in tobacco materials make a statement of shipments and deliveries or give an inventory upon demand, prior to repeal by Pub. L. 89-44, title V, §502(b)(7), title VII, §701(d), June 21, 1965, 79 Stat. 151, 157, applicable on and after Jan. 1, 1966.

AMENDMENTS

2007—Subsec. (c)(2). Pub. L. 110-172, which directed amendment of section 5732 of this title, as redesignated by Pub. L. 109-59, §11125(b)(20)(A), by substituting “this subchapter” for “this subpart” in subsec. (c)(2) effective Dec. 29, 2007, was executed to this section to reflect the probable intent of Congress even though the redesignation of section 5142 of this title as this section was not effective until July 1, 2008. See 2005 Amendment and Effective Date of 2005 Amendment notes below.

2005—Pub. L. 109-59, §11125(b)(20)(A), renumbered section 5142 of this title as this section and transferred section to this subchapter.

Subsecs. (a), (b). Pub. L. 109-59, §11125(b)(20)(B), struck out “(except the tax imposed by section 5131)” before “until he has paid” in subsec. (a) and before “shall be imposed” in subsec. (b).

Pub. L. 109-59, §11125(b)(20)(A), substituted “this subchapter” for “this part”.

Subsec. (c)(1). Pub. L. 109-59, §11125(b)(20)(A), substituted “this subchapter” for “this part”.

1976—Subsec. (c). Pub. L. 94-455 substituted provisions under which the special taxes would be paid on the basis of a return for provisions under which the special taxes were paid by stamps denoting the tax.

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 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.

§ 5733. Provisions relating to liability for occupational taxes

(a) Partners

Any number of persons doing business in partnership at any one place shall be required to pay but one special tax.

(b) Different businesses of same ownership and location

Whenever more than one of the pursuits or occupations described in this subchapter are carried on in the same place by the same person at the same time, except as otherwise provided in this subchapter, the tax shall be paid for each according to the rates severally prescribed.

(c) Businesses in more than one location

(1) Liability for tax

The payment of a special tax imposed by this subchapter shall not exempt from an additional special tax the person carrying on a trade or business in any other place than that stated in the register kept in the office of the official in charge of the internal revenue district.

(2) Storage

Nothing contained in paragraph (1) shall require a special tax for the storage of tobacco products and cigarette papers and tubes at a location other than the place where tobacco products and cigarette papers and tubes are sold or offered for sale.

(3) Definition of place

The term “place” as used in this section means the entire office, plant or area of the business in any one location under the same proprietorship; and passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises, shall not be deemed sufficient separation to require additional special tax, if the various divisions are otherwise contiguous.

(d) Death or change of location

Certain persons, other than the person who has paid the special tax under this subchapter

for the carrying on of any business at any place, may secure the right to carry on, without incurring additional special tax, the same business at the same place for the remainder of the taxable period for which the special tax was paid. The persons who may secure such right are:

(1) the surviving spouse or child, or executor or administrator or other legal representative, of a deceased taxpayer;

(2) a husband or wife succeeding to the business of his or her living spouse;

(3) a receiver or trustee in bankruptcy, or an assignee for benefit of creditors; and

(4) the partner or partners remaining after death or withdrawal of a member of a partnership.

When any person moves to any place other than the place for which special tax was paid for the carrying on of any business, he may secure the right to carry on, without incurring additional special tax, the same business at his new location for the remainder of the taxable period for which the special tax was paid. To secure the right to carry on the business without incurring additional special tax, the successor, or the person relocating his business, must register the succession or relocation with the Secretary in accordance with regulations prescribed by the Secretary.

(e) Federal agencies or instrumentalities

Any tax imposed by this subchapter shall apply to any agency or instrumentality of the United States unless such agency or instrumentality is granted by statute a specific exemption from such tax.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1347, §5143; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; renumbered §5733 and amended Pub. L. 109-59, title XI, §11125(b)(20)(A), (C), Aug. 10, 2005, 119 Stat. 1956, 1957.)

Editorial Notes

AMENDMENTS

2005—Pub. L. 109-59, §11125(b)(20)(A), renumbered section 5143 of this title as this section, transferred section to this subchapter, and substituted “this subchapter” for “this part” wherever appearing.

Subsec. (c)(2). Pub. L. 109-59, §11125(b)(20)(C), substituted “tobacco products and cigarette papers and tubes” for “liquors” in two places.

1976—Subsec. (d)(4). Pub. L. 94-455 struck out “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.

§ 5734. Application of State laws

The payment of any tax imposed by this subchapter for carrying on any trade or business shall not be held to exempt any person from any penalty or punishment provided by the laws of any State for carrying on such trade or business within such State, or in any manner to authorize the commencement or continuance of such