

this section [enacting this section] shall apply to services performed on or after July 1, 2010.”

CHAPTER 50—FOREIGN PROCUREMENT

Sec. 5000C. Imposition of tax on certain foreign procurement.

§ 5000C. Imposition of tax on certain foreign procurement

(a) Imposition of tax

There is hereby imposed on any foreign person that receives a specified Federal procurement payment a tax equal to 2 percent of the amount of such specified Federal procurement payment.

(b) Specified Federal procurement payment

For purposes of this section, the term “specified Federal procurement payment” means any payment made pursuant to a contract with the Government of the United States for—

- (1) the provision of goods, if such goods are manufactured or produced in any country which is not a party to an international procurement agreement with the United States, or
(2) the provision of services, if such services are provided in any country which is not a party to an international procurement agreement with the United States.

(c) Foreign person

For purposes of this section, the term “foreign person” means any person other than a United States person.

(d) Administrative provisions

(1) Withholding

The amount deducted and withheld under chapter 3 shall be increased by the amount of tax imposed by this section on such payment.

(2) Other administrative provisions

For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

(Added Pub. L. 111-347, title III, §301(a)(1), Jan. 2, 2011, 124 Stat. 3666.)

EFFECTIVE DATE

Pub. L. 111-347, title III, §301(a)(3), Jan. 2, 2011, 124 Stat. 3666, provided that: “The amendments made by this subsection [enacting this section] shall apply to payments received pursuant to contracts entered into on and after the date of the enactment of this Act [Jan. 2, 2011].”

PROHIBITION ON REIMBURSEMENT OF FEES

Pub. L. 111-347, title III, §301(b), Jan. 2, 2011, 124 Stat. 3666, provided that:

- “(1) IN GENERAL.—The head of each executive agency shall take any and all measures necessary to ensure that no funds are disbursed to any foreign contractor in order to reimburse the tax imposed under section 5000C of the Internal Revenue Code of 1986.
“(2) ANNUAL REVIEW.—The Administrator for Federal Procurement Policy shall annually review the contracting activities of each executive agency to monitor compliance with the requirements of paragraph (1).
“(3) EXECUTIVE AGENCY.—For purposes of this subsection, the term ‘executive agency’ has the meaning given the term in section 4 of the Office of Federal Procurement Policy Act ([former] 41 U.S.C. 403) [see 41 U.S.C. 133].”

APPLICATION

Pub. L. 111-347, title III, §301(c), Jan. 2, 2011, 124 Stat. 3666, provided that: “This section [enacting this section and provisions set out as notes under this section] and the amendments made by this section shall be applied in a manner consistent with United States obligations under international agreements.”

Subtitle E—Alcohol, Tobacco, and Certain Other Excise Taxes

Table with 2 columns: Chapter and Sec.1. Rows include: 51. Distilled spirits, wines, and beer (5001); 52. Tobacco products and cigarette papers and tubes (5701); 53. Machine guns and certain other firearms (5801); 54. Greenmail (5881); 55. Structured settlement factoring transactions (5891).

AMENDMENTS

- 2002—Pub. L. 107-134, title I, §115(b), Jan. 23, 2002, 115 Stat. 2438, added item relating to chapter 55.
1997—Pub. L. 105-33, title IX, §9302(g)(3)(D), Aug. 5, 1997, 111 Stat. 673, added item relating to chapter 52 and struck out former item relating to chapter 52 “Cigars, cigarettes, smokeless tobacco, pipe tobacco, and cigarette papers and tubes”.
1988—Pub. L. 100-647, title V, §5061(c)(4), Nov. 10, 1988, 102 Stat. 3680, substituted “Cigars, cigarettes, smokeless tobacco, pipe tobacco, and cigarette papers and tubes” for “Tobacco, cigars, cigarettes, smokeless tobacco, and cigarette papers and tubes” in item relating to chapter 52.
Pub. L. 100-647, title I, §1018(u)(16), Nov. 10, 1988, 102 Stat. 3590, inserted “smokeless tobacco,” after “cigarettes,” in item relating to chapter 52.
1987—Pub. L. 100-203, title X, §10228(c), Dec. 22, 1987, 101 Stat. 1330-418, added item relating to chapter 54.

CHAPTER 51—DISTILLED SPIRITS, WINES, AND BEER

Table with 2 columns: Subchapter and Sec.1. Rows include: A. Gallonage and occupational taxes (5001); B. Qualification requirements for distilled spirits plants (5171); C. Operation of distilled spirits plants (5201); D. Industrial use of distilled spirits (5271); E. General provisions relating to distilled spirits (5291); F. Bonded and taxpaid wine premises (5351); G. Breweries (5401); H. Miscellaneous plants and warehouses (5501); I. Miscellaneous general provisions (5551); J. Penalties, seizures, and forfeitures relating to liquors (5601).

PRIOR PROVISIONS

The provisions of a prior chapter 51, Distilled Spirits, Wines, and Beer, were set out as:
Subchapter A, Gallonage and occupational taxes, comprising sections 5001 to 5012, 5021 to 5028, 5041 to 5045, 5051 to 5057, 5061 to 5065, 5081 to 5084, 5091 to 5093, 5101 to 5106, 5111 to 5116, 5121 to 5124, 5131 to 5134, and 5141 to 5149.
Subchapter B, Distilleries, comprising sections 5171 to 5180, 5191 to 5197, and 5211 to 5217.
Subchapter C, Internal Revenue bonded warehouses, comprising sections 5231 to 5233 and 5241 to 5252.
Subchapter D, Rectifying plants, comprising sections 5271 to 5275 and 5281 to 5285.

1 Section numbers editorially supplied.
2 Chapter heading amended by Pub. L. 90-618 without corresponding amendment of analysis.
3 Section numbers editorially supplied.

Subchapter E, Industrial alcohol plants, bonded warehouses, denaturing plants, and denaturation, comprising sections 5301 to 5320 and 5331 to 5334. Subchapter F, Bonded and taxpaid wine premises, comprising sections 5351 to 5357, 5361 to 5373, 5381 to 5388, 5391, and 5392. Subchapter G, Breweries, comprising sections 5401 to 5403 and 5411 to 5416. Subchapter H, Miscellaneous plants and warehouses, comprising sections 5501, 5502, 5511, 5512, and 5521 to 5523. Subchapter I, Miscellaneous general provisions, comprising sections 5551 to 5557. Subchapter J, Penalties, seizures, and forfeitures relating to liquors, comprising sections 5601 to 5650, 5661 to 5663, 5671 to 5676, 5681 to 5690, and 5691 to 5693.

**Subchapter A—Gallonage and Occupational Taxes**

- Part I. Gallonage taxes.
- II. Miscellaneous provisions.

AMENDMENTS

2005—Pub. L. 109-59, title XI, §11125(b)(1)(B), Aug. 10, 2005, 119 Stat. 1953, substituted “Miscellaneous provisions” for “Occupational tax” in item for part II.

PART I—GALLONAGE TAXES

- Subpart A. Distilled spirits.
- [B. Repealed.]
- C. Wines.
- D. Beer.
- E. General provisions.

AMENDMENTS

1979—Pub. L. 96-39, title VIII, §807(b)(1), July 26, 1979, 93 Stat. 290, struck out item relating to subpart B “Rectification”.

SUBPART A—DISTILLED SPIRITS

- Sec. 5001. Imposition, rate, and attachment of tax.
- 5002. Definitions.
- 5003. Cross references to exemptions, etc.
- 5004. Lien for tax.
- 5005. Persons liable for tax.
- 5006. Determination of tax.
- 5007. Collection of tax on distilled spirits.
- 5008. Abatement, remission, refund, and allowance for loss or destruction of distilled spirits.
- [5009. Repealed.]
- 5010. Credit for wine content and for flavors content.
- 5011. Income tax credit for average cost of carrying excise tax.

PRIOR PROVISIONS

A prior subpart A, comprising sections 5001 to 5012, related to tax on distilled spirits, prior to the general revision of this chapter by Pub. L. 85-859, title II, 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

2005—Pub. L. 109-59, title XI, §11126(c), Aug. 10, 2005, 119 Stat. 1958, added item 5011.

1980—Pub. L. 96-598, §6(b), Dec. 24, 1980, 94 Stat. 3489, added item 5010.

1979—Pub. L. 96-39, title VIII, §807(b)(2), July 26, 1979, 93 Stat. 290, struck out item 5009 “Drawback”.

**§ 5001. Imposition, rate, and attachment of tax**

**(a) Rate of tax**

**(1) General**

There is hereby imposed on all distilled spirits produced in or imported into the United

States a tax at the rate of \$13.50 on each proof gallon and a proportionate tax at the like rate on all fractional parts of a proof gallon.

**(2) Products containing distilled spirits**

All products of distillation, by whatever name known, which contain distilled spirits, on which the tax imposed by law has not been paid, and any alcoholic ingredient added to such products, shall be considered and taxed as distilled spirits.

**(3) Wines containing more than 24 percent alcohol by volume**

Wines containing more than 24 percent of alcohol by volume shall be taxed as distilled spirits.

**(4) Distilled spirits withdrawn free of tax**

Any person who removes, sells, transports, or uses distilled spirits, withdrawn free of tax under section 5214(a) or section 7510, in violation of laws or regulations now or hereafter in force pertaining thereto, and all such distilled spirits shall be subject to all provisions of law relating to distilled spirits subject to tax, including those requiring payment of the tax thereon; and the person so removing, selling, transporting, or using the distilled spirits shall be required to pay such tax.

**(5) Denatured distilled spirits or articles**

Any person who produces, withdraws, sells, transports, or uses denatured distilled spirits or articles in violation of laws or regulations now or hereafter in force pertaining thereto, and all such denatured distilled spirits or articles shall be subject to all provisions of law pertaining to distilled spirits that are not denatured, including those requiring the payment of tax thereon; and the person so producing, withdrawing, selling, transporting, or using the denatured distilled spirits or articles shall be required to pay such tax.

**(6) Fruit-flavor concentrates**

If any volatile fruit-flavor concentrate (or any fruit mash or juice from which such concentrate is produced) containing one-half of 1 percent or more of alcohol by volume, which is manufactured free from tax under section 5511, is sold, transported, or used by any person in violation of the provisions of this chapter or regulations promulgated thereunder, such person and such concentrate, mash, or juice shall be subject to all provisions of this chapter pertaining to distilled spirits and wines, including those requiring the payment of tax thereon; and the person so selling, transporting, or using such concentrate, mash, or juice shall be required to pay such tax.

**(7) Imported liqueurs and cordials**

Imported liqueurs and cordials, or similar compounds, containing distilled spirits, shall be taxed as distilled spirits.

**(8) Imported distilled spirits withdrawn for beverage purposes**

There is hereby imposed on all imported distilled spirits withdrawn from customs custody under section 5232 without payment of the internal revenue tax, and thereafter withdrawn