

(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.)

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”.

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 trade or business contrary to the laws of such State or in places prohibited by municipal law; nor shall the payment of any such tax be held to prohibit any State from placing a duty or tax on the same trade or business, for State or other purposes.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1348, §5145; renumbered §5734 and amended Pub. L. 109-59, title XI, §11125(b)(20)(A), Aug. 10, 2005, 119 Stat. 1956.)

AMENDMENTS

2005—Pub. L. 109-59 renumbered section 5145 of this title as this section, transferred section to this subchapter, and substituted “this subchapter” for “this part” in text.

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.

Subchapter E—Records of Manufacturers and Importers of Tobacco Products and Cigarette Papers and Tubes, and Export Warehouse Proprietors

Sec.
5741. Records to be maintained.

AMENDMENTS

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

1976—Pub. L. 94-455, title XXI, §2128(d)(1), Oct. 4, 1976, 90 Stat. 1921, inserted “and Importers” in subchapter heading.

1965—Pub. L. 89-44, title V, §502(b)(7), (8), June 21, 1965, 79 Stat. 151, struck out former subchapter D, consisting of §§5731 and 5732 relating to operations by dealers in tobacco materials, redesignated subchapter E as D and, in heading for subchapter D, as redesignated, struck out reference to dealers in tobacco materials.

1958—Pub. L. 85-859, title II, §202, Sept. 2, 1958, 72 Stat. 1423, substituted “Manufacturers of Tobacco Products and Cigarette Papers and Tubes, Export Warehouse proprietors, and” for “Manufacturers of Articles and” in heading of subchapter.

§ 5741. Records to be maintained

Every manufacturer of tobacco products, processed tobacco, or cigarette papers and tubes, every importer, and every export warehouse proprietor shall keep such records in such manner as the Secretary shall by regulation prescribe. The records required under this section shall be available for inspection by any internal revenue officer during business hours.

(Aug. 16, 1954, ch. 736, 68A Stat. 715; Pub. L. 85-859, title II, § 202, Sept. 2, 1958, 72 Stat. 1423; Pub. L. 89-44, title V, § 502(b)(9), June 21, 1965, 79 Stat. 151; Pub. L. 94-455, title XXI, § 2128(c), Oct. 4, 1976, 90 Stat. 1921; Pub. L. 111-3, title VII, § 702(a)(3), Feb. 4, 2009, 123 Stat. 108.)

AMENDMENTS

2009—Pub. L. 111-3 inserted “, processed tobacco,” after “tobacco products”.

1976—Pub. L. 94-455 inserted reference to importers, struck out “or his delegate” after “Secretary”, and provided that the required records be available for inspection by any internal revenue officer during business hours.

1965—Pub. L. 89-44 struck out reference to every dealer in tobacco materials.

1958—Pub. L. 85-859 substituted “tobacco products or cigarette papers and tubes, every warehouse proprietor, and every dealer” for “articles and dealer”, and “such manner” for “such form”.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-3 effective Apr. 1, 2009, see section 702(a)(6) of Pub. L. 111-3, set out as a note under section 5702 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-44 applicable on and after January 1, 1966, see section 701(d) of Pub. L. 89-44, set out as a note under section 5701 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-859 effective Sept. 3, 1958, see section 210(a)(1) of Pub. L. 85-859, set out as an Effective Date note under section 5001 of this title.

Subchapter F—General Provisions

Sec.

5751. Purchase, receipt, possession, or sale of tobacco products and cigarette papers and tubes, after removal.
5752. Restrictions relating to marks, labels, notices, and packages.
5753. Disposal of forfeited, condemned, and abandoned tobacco products, and cigarette papers and tubes.
5754. Restriction on importation of previously exported tobacco products.

AMENDMENTS

1997—Pub. L. 105-33, title IX, § 9302(h)(1)(E)(ii), Aug. 5, 1997, 111 Stat. 674, added item 5754.

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

1976—Pub. L. 94-455, title XIX, § 1905(b)(7)(B)(iii), Oct. 4, 1976, 90 Stat. 1823, substituted “and packages” for “stamps, and packages” in item 5752.

1965—Pub. L. 89-44, title V, § 502(b)(7), (10), June 21, 1965, 79 Stat. 151, 152, redesignated subchapter F as E and, in the table of sections for subchapter E as so redesignated, struck out reference to tobacco materials in item 5753. Former subchapter E redesignated D.

1958—Pub. L. 85-859, title II, § 202, Sept. 2, 1958, 72 Stat. 1423, substituted “sale of tobacco products and cigarette papers and tubes, after removal” for “sale of articles, after removal not exempt from tax” in item 5751, included marks and notices in item 5752, and substituted “tobacco products, cigarette papers and tubes, and” for “articles and” in item 5753.

§ 5751. Purchase, receipt, possession, or sale of tobacco products and cigarette papers and tubes, after removal

(a) Restriction

No person shall—

(1) with intent to defraud the United States, purchase, receive, possess, offer for sale, or sell or otherwise dispose of, after removal, any tobacco products or cigarette papers or tubes—

(A) upon which the tax has not been paid or determined in the manner and at the time prescribed by this chapter or regulations thereunder; or

(B) which, after removal without payment of tax pursuant to section 5704, have been diverted from the applicable purpose or use specified in that section; or

(2) with intent to defraud the United States, purchase, receive, possess, offer for sale, or sell or otherwise dispose of, after removal, any tobacco products or cigarette papers or tubes, which are not put up in packages as required under section 5723 or which are put up in packages not bearing the marks, labels, and notices, as required under such section; or

(3) otherwise than with intent to defraud the United States, purchase, receive, possess, offer for sale, or sell or otherwise dispose of, after removal, any tobacco products or cigarette papers or tubes, which are not put up in packages as required under section 5723 or which are put up in packages not bearing the marks, labels, and notices, as required under such section. This paragraph shall not prevent the sale or delivery of tobacco products or cigarette papers or tubes directly to consumers from proper packages, nor apply to such articles when so sold or delivered.

(b) Liability to tax

Any person who possesses tobacco products or cigarette papers or tubes in violation of subsection (a)(1) or (a)(2) shall be liable for a tax equal to the tax on such articles.

(Aug. 16, 1954, ch. 736, 68A Stat. 716; Pub. L. 85-859, title II, § 202, Sept. 2, 1958, 72 Stat. 1424; Pub. L. 94-455, title XIX, § 1905(b)(7)(A), Oct. 4, 1976, 90 Stat. 1823.)

AMENDMENTS

1976—Subsec. (a)(2), (3). Pub. L. 94-455 substituted “and notices” for “notices, and stamps”.

1958—Pub. L. 85-859 substituted “tobacco products and cigarette papers and tubes, after removal” for “articles, after removal, not exempt from tax” in section catchline.

Subsec. (a) amended generally by Pub. L. 85-859, which included within the restrictions, purchase, receipt, possession, offer for sale, or sale of other disposition of tobacco products or cigarette papers or tubes, after removal, upon which the tax has not been paid or determined, or which after removal without payment of tax have been diverted from the applicable purpose or use specified in section 5704, and to provide that par. (3) shall not prevent the delivery of tobacco products or cigarette papers or tubes directly to consumers from proper packages, nor apply to such articles when so delivered.

Subsec. (b). Pub. L. 85-859 substituted “tobacco products or cigarette papers or tubes in violation of subsection (a)(1) or (a)(2) shall be liable for a tax equal to the tax on such articles” or “articles in violation of subsection (a) of this section, shall incur liability to the tax thereon in addition to the penalties prescribed elsewhere in 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.