

(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.

4, 1976, see section 1905(d) of Pub. L. 94-455, set out as a note under section 5005 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.

§ 5752. Restrictions relating to marks, labels, notices, and packages

No person shall, with intent to defraud the United States, destroy, obliterate, or detach any mark, label, or notice prescribed or authorized, by this chapter or regulations thereunder, to appear on, or be affixed to, any package of tobacco products or cigarette papers or tubes, before such package is emptied.

(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)(B)(i), Oct. 4, 1976, 90 Stat. 1823.)

AMENDMENTS

1976—Pub. L. 94-455 struck out reference to stamps in the section catchline and in the text and struck out provisions which had enumerated violations involving the misuse of tax stamps.

1958—Pub. L. 85-859 included marks and notices in the catchline, limited the penalties to cases where there is intent to defraud the United States, and prohibited the destruction, obliteration, or detachment of any mark, label, notice or stamp before a package of tobacco products or cigarette papers or tubes is emptied.

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.

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.

§ 5753. Disposal of forfeited, condemned, and abandoned tobacco products, and cigarette papers and tubes

If it appears that any forfeited, condemned, or abandoned tobacco products, or cigarette papers and tubes, when offered for sale, will not bring a price equal to the tax due and payable thereon, and the expenses incident to the sale thereof, such articles shall not be sold for consumption in the United States but shall be disposed of in accordance with such regulations as the Secretary shall prescribe.

(Aug. 16, 1954, ch. 736, 68A Stat. 716; Pub. L. 85-859, title II, §202, Sept. 2, 1958, 72 Stat. 1425; Pub. L. 89-44, title V, §502(b)(11), June 21, 1965, 79 Stat. 152; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

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

1965—Pub. L. 89-44 struck out references to tobacco materials wherever appearing in heading and text.

1958—Pub. L. 85-859 substituted “tobacco products, cigarette papers and tubes” for “articles” wherever appearing.

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.

§ 5754. Restriction on importation of previously exported tobacco products

(a) Export-labeled tobacco products

(1) In general

Tobacco products and cigarette papers and tubes manufactured in the United States and labeled for exportation under this chapter—

(A) may be transferred to or removed from the premises of a manufacturer or an export warehouse proprietor only if such articles are being transferred or removed without tax in accordance with section 5704;

(B) may be imported or brought into the United States, after their exportation, only if such articles either are eligible to be released from customs custody with the partial duty exemption provided in section 5704(d) or are returned to the original manufacturer of such article as provided in section 5704(c); and

(C) may not be sold or held for sale for domestic consumption in the United States unless such articles are removed from their export packaging and repackaged by the original manufacturer into new packaging that does not contain an export label.

(2) Alterations by persons other than original manufacturer

This section shall apply to articles labeled for export even if the packaging or the appearance of such packaging to the consumer of such articles has been modified or altered by a person other than the original manufacturer so as to remove or conceal or attempt to remove or conceal (including by the placement of a sticker over) any export label.

(3) Exports include shipments to Puerto Rico

For purposes of this section, section 5704(d), section 5761, and such other provisions as the Secretary may specify by regulations, references to exportation shall be treated as including a reference to shipment to the Commonwealth of Puerto Rico.

(b) Export label

For purposes of this section, an article is labeled for export or contains an export label if it bears the mark, label, or notice required under section 5704(b).

(c) Cross references

(1) For exception to this section for personal use, see section 5761(d).

(2) For civil penalties related to violations of this section, see section 5761(c).

(3) For a criminal penalty applicable to any violation of this section, see section 5762(b).

(4) For forfeiture provisions related to violations of this section, see section 5761(e).

(Added Pub. L. 105-33, title IX, §9302(h)(1)(E)(i), Aug. 5, 1997, 111 Stat. 673; amended Pub. L. 106-476, title IV, §4002(a), Nov. 9, 2000, 114 Stat. 2176; Pub. L. 109-432, div. C, title IV, §401(f)(2)(B), Dec. 20, 2006, 120 Stat. 3050.)

AMENDMENTS

2006—Subsec. (c)(1). Pub. L. 109-432 substituted “5761(d)” for “5761(c)”.