

credit provided in this subsection from benefiting any person who produces more than 250,000 wine gallons of wine during a calendar year and to assure proper reduction of such credit for persons producing more than 150,000 wine gallons of wine during a calendar year.”

1990—Subsec. (b)(1). Pub. L. 101-508, §11201(b)(1)(A), substituted “\$1.07” for “17 cents”.

Subsec. (b)(2). Pub. L. 101-508, §11201(b)(1)(B), substituted “\$1.57” for “67 cents”.

Subsec. (b)(3). Pub. L. 101-508, §11201(b)(1)(C), substituted “\$3.15” for “\$2.25”.

Subsec. (b)(5). Pub. L. 101-508, §11201(b)(1)(D), substituted “\$3.30” for “\$2.40”.

Subsecs. (c) to (f). Pub. L. 101-508, §11201(b)(2), added subsec. (c) and redesignated former subsecs. (c) to (e) as (d) to (f), respectively.

1988—Subsecs. (d), (e). Pub. L. 100-647 added subsec. (d) and redesignated former subsec. (d) as (e).

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

1974—Subsec. (a). Pub. L. 93-490 substituted “0.392” for “0.277”.

1965—Subsec. (a). Pub. L. 89-44, §806(a), substituted “0.277” for “0.256”.

Subsec. (b). Pub. L. 89-44, §501(c)(1)–(5), struck out provisions at end of each par. setting out a specified reduced rate to be applied on and after July 1, 1965.

1964—Subsec. (b). Pub. L. 88-348 substituted “July 1, 1965” for “July 1, 1964” in five places.

1963—Subsec. (b). Pub. L. 88-52 substituted “July 1, 1964” for “July 1, 1963” in five places.

1962—Subsec. (b). Pub. L. 87-508 substituted “July 1, 1963” for “July 1, 1962” in five places.

1961—Subsec. (b). Pub. L. 87-72 substituted “July 1, 1962” for “July 1, 1961” in five places.

1960—Subsec. (b). Pub. L. 86-564 substituted “July 1, 1961” for “July 1, 1960” in five places.

1959—Subsec. (b). Pub. L. 86-75 substituted “July 1, 1960” for “July 1, 1959” in five places.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title IX, §908(c), Aug. 5, 1997, 111 Stat. 876, provided that: “The amendments made by this section [amending this section] shall take effect on October 1, 1997.”

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101-508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104-188, set out as a note under section 38 of this title.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 effective Jan. 1, 1991, see section 11201(d) of Pub. L. 101-508, set out as a note under section 5001 of this title.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title VI, §6101(b), Nov. 10, 1988, 102 Stat. 3710, provided that: “The amendment made by subsection (a) [amending this section] shall apply to wine removed after December 31, 1988.”

#### EFFECTIVE DATE OF 1974 AMENDMENT

Pub. L. 93-490, §6(b), Oct. 26, 1974, 88 Stat. 1468, provided that: “The amendment made by this section [amending this section] shall take effect on the first day of the first calendar month which begins more than 90 days after the date of enactment of this Act [Oct. 26, 1974].”

#### EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 501(c) of Pub. L. 89-44 applicable on and after July 1, 1965, see section 701(d) of Pub. L. 89-44, set out as a note under section 5701 of this title.

Pub. L. 89-44, title VIII, §806(d)(1), June 21, 1965, 79 Stat. 164, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on July 1, 1965.”

#### EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

#### FLOOR STOCKS TAXES ON DISTILLED SPIRITS, WINE, AND BEER

Imposition of tax on wine, exception for small domestic producers, exception for certain small wholesale or retail dealers, credit against tax, liability for tax and method of payment, controlled groups, other laws applicable, and definitions, see section 11201(e) of Pub. L. 101-508, set out as a note under section 5001 of this title.

### § 5042. Exemption from tax

#### (a) Tax-free production

##### (1) Cider

Subject to regulations prescribed by the Secretary, the noneffervescent product of the normal alcoholic fermentation of apple juice only, which is produced at a place other than a bonded wine cellar and without the use of preservative methods or materials, and which is sold or offered for sale as cider and not as wine or as a substitute for wine, shall not be subject to tax as wine nor to the provisions of subchapter F.

##### (2) Wine for personal or family use

Subject to regulations prescribed by the Secretary—

##### (A) Exemption

Any adult may, without payment of tax, produce wine for personal or family use and not for sale.

##### (B) Limitation

The aggregate amount of wine exempt from tax under this paragraph with respect to any household shall not exceed—

- (i) 200 gallons per calendar year if there are 2 or more adults in such household, or
- (ii) 100 gallons per calendar year if there is only 1 adult in such household.

##### (C) Adults

For purposes of this paragraph, the term “adult” means an individual who has attained 18 years of age, or the minimum age (if any) established by law applicable in the locality in which the household is situated at which wine may be sold to individuals, whichever is greater.

##### (3) Experimental wine

Subject to regulations prescribed by the Secretary, any scientific university, college of learning, or institution of scientific research may produce, receive, blend, treat, and store wine, without payment of tax, for experimental or research use but not for consumption (other than organoleptical tests) or sale,

and may receive such wine spirits without payment of tax as may be necessary for such production.

**(b) Cross references**

(1) For provisions relating to exemption of tax on losses of wine (including losses by theft or authorized destruction), see section 5370.

(2) For provisions exempting from tax samples of wine, see section 5372.

(3) For provisions authorizing withdrawals of wine free of tax or without payment of tax, see section 5362.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1331; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-458, §2(a), Oct. 14, 1978, 92 Stat. 1255.)

PRIOR PROVISIONS

A prior section 5042, act Aug. 16, 1954, ch. 736, 68A Stat. 610, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1978—Subsec. (a)(2). Pub. L. 95-458 substituted in heading “Wine for personal or family use” for “Family wine” and in text provision permitting an adult to produce 200 gallons of wine per calendar year if there are 2 or more adults in the household or 100 gallons of wine per calendar year if there is one adult in the household for provision which permitted the duly registered head of any family to produce an amount of wine not exceeding 200 gallons of wine per annum.

1976—Subsec. (a)(1) to (3). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-458, §2(c), Oct. 14, 1978, 92 Stat. 1257, provided that: “The amendments made by this section [amending this section and sections 5051, 5053, 5054, 5092, 5222, and 5674 of this title] shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act [Oct. 14, 1978].”

**§ 5043. Collection of taxes on wines**

**(a) Persons liable for payment**

The taxes on wine provided for in this subpart shall be paid—

**(1) Bonded wine cellars**

In the case of wines removed from any bonded wine cellar, by the proprietor of such bonded wine cellar; except that—

(A) in the case of any transfer of wine in bond as authorized under the provisions of section 5362(b), the liability for payment of the tax shall become the liability of the transferee from the time of removal of the wine from the transferor’s premises, and the transferor shall thereupon be relieved of such liability; and

(B) in the case of any wine withdrawn by a person other than such proprietor without payment of tax as authorized under the provisions of section 5362(c), the liability for payment of the tax shall become the liability of such person from the time of the removal of the wine from the bonded wine cellar, and such proprietor shall thereupon be relieved of such liability.

**(2) Foreign wine**

In the case of foreign wines which are not transferred to a bonded wine cellar free of tax under section 5364, by the importer thereof.

**(3) Other wines**

Immediately, in the case of any wine produced, imported, received, removed, or possessed otherwise than as authorized by law, by any person producing, importing, receiving, removing, or possessing such wine; and all such persons shall be jointly and severally liable for such tax with each other as well as with any proprietor, transferee, or importer who may be liable for the tax under this subsection.

**(b) Payment of tax**

The taxes on wines shall be paid in accordance with section 5061.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1332; amended Pub. L. 94-455, title XIX, §1905(b)(2)(C), Oct. 4, 1976, 90 Stat. 1822; Pub. L. 96-39, title VIII, §807(a)(8), July 26, 1979, 93 Stat. 281; Pub. L. 105-206, title VI, §6014(b)(1), July 22, 1998, 112 Stat. 820.)

PRIOR PROVISIONS

A prior section 5043, act Aug. 16, 1954, ch. 736, 68A Stat. 610, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105-206 inserted “which are not transferred to a bonded wine cellar free of tax under section 5364” after “foreign wines”.

1979—Subsec. (a)(1)(A). Pub. L. 96-39 struck out “between bonded wine cellars” after “transfer of wine in bond”.

1976—Subsec. (b). Pub. L. 94-455 substituted “The taxes” for “Except as provided in subsection (a)(3), the taxes”.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates (see section 1422(c) of Pub. L. 105-34 set out as an Effective Date note under section 5364 of this title), see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 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.

**§ 5044. Refund of tax on wine**

**(a) General**

In the case of any wine removed from a bonded wine cellar and returned to bond under section 5361—

(1) any tax imposed by section 5041 shall, if paid, be refunded or credited, without interest, to the proprietor of the bonded wine cellar to which such wine is delivered; or