

(2) if any tax so imposed has not been paid, the person liable for the tax may be relieved of liability therefor,

under such regulations as the Secretary may prescribe. Such regulations may provide that claim for refund or credit under paragraph (1), or relief from liability under paragraph (2), may be made only with respect to minimum quantities specified in such regulations. The burden of proof in all such cases shall be on the applicant.

(b) Date of filing

No claim under subsection (a) shall be allowed unless filed within 6 months after the date of the return of the wine to bond.

(c) Status of wine returned to bond

All provisions of this chapter applicable to wine in bond on the premises of a bonded wine cellar and to removals thereof shall be applicable to wine returned to bond under the provisions of this section.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1332; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105-34, title XIV, §1416(a), (b)(2), Aug. 5, 1997, 111 Stat. 1048; Pub. L. 105-206, title VI, §6014(b)(2), July 22, 1998, 112 Stat. 820.)

PRIOR PROVISIONS

A prior section 5044, act Aug. 16, 1954, ch. 736, 68A Stat. 611, 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). Pub. L. 105-206 substituted “removed from a bonded wine cellar” for “produced in the United States” in introductory provisions.

1997—Pub. L. 105-34, §1416(b)(2), struck out “unmerchantable” after “tax on” in section catchline.

Subsec. (a). Pub. L. 105-34, §1416(a), struck out “as unmerchantable” after “to bond” in introductory provisions.

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

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 XIV, §1416(c), Aug. 5, 1997, 111 Stat. 1048, provided that: “The amendments made by this section [amending this section and section 5361 of this title] shall take effect on the 1st day of the 1st calendar quarter that begins at least 180 days after the date of the enactment of this Act [Aug. 5, 1997].”

§ 5045. Cross references

For provisions relating to the establishment and operation of wineries, see subchapter F, and for penalties pertaining to wine, see subchapter J.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1333.)

PRIOR PROVISIONS

A prior section 5045, act Aug. 16, 1954, ch. 736, 68A Stat. 611, consisted of provisions similar to those com-

prising this section, prior to the general revision of this chapter by Pub. L. 85-859.

SUBPART D—BEER

Sec.	
5051.	Imposition and rate of tax.
5052.	Definitions.
5053.	Exemptions.
5054.	Determination and collection of tax on beer.
5055.	Drawback of tax.
5056.	Refund and credit of tax, or relief from liability.

PRIOR PROVISIONS

A prior subpart D, comprising sections 5051 to 5057 of this title, related to beer, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

§ 5051. Imposition and rate of tax

(a) Rate of tax

(1) In general

A tax is hereby imposed on all beer brewed or produced, and removed for consumption or sale, within the United States, or imported into the United States. Except as provided in paragraph (2), the rate of such tax shall be \$18 for every barrel containing not more than 31 gallons and at a like rate for any other quantity or for fractional parts of a barrel.

(2) Reduced rate for certain domestic production

(A) \$7 a barrel rate

In the case of a brewer who produces not more than 2,000,000 barrels of beer during the calendar year, the per barrel rate of the tax imposed by this section shall be \$7 on the first 60,000 barrels of beer which are removed in such year for consumption or sale and which have been brewed or produced by such brewer at qualified breweries in the United States.

(B) Controlled groups

In the case of a controlled group, the 2,000,000 barrel quantity specified in subparagraph (A) shall be applied to the controlled group, and the 60,000 barrel quantity specified in subparagraph (A) shall be apportioned among the brewers who are component members of such group in such manner as the Secretary or his delegate shall by regulations prescribed. For purposes of the preceding sentence, the term “controlled group” has the meaning assigned to it by subsection (a) of section 1563, except that for such purposes the phrase “more than 50 percent” shall be substituted for the phrase “at least 80 percent” in each place it appears in such subsection. Under regulations prescribed by the Secretary or his delegate, principles similar to the principles of the preceding two sentences shall be applied to a group of brewers under common control where one or more of the brewers is not a corporation.

(C) Regulations

The Secretary may prescribe such regulations as may be necessary to prevent the reduced rates provided in this paragraph from

benefiting any person who produces more than 2,000,000 barrels of beer during a calendar year.

(3) Tolerances

Where the Secretary or his delegate finds that the revenue will not be endangered thereby, he may by regulations prescribe tolerances for barrels and fractional parts of barrels, and, if such tolerances are prescribed, no assessment shall be made and no tax shall be collected for any excess in any case where the contents of a barrel or a fractional part of a barrel are within the limit of the applicable tolerance prescribed.

(b) Assessment on materials used in production in case of fraud

Nothing contained in this subpart or subchapter G shall be construed to authorize an assessment on the quantity of materials used in producing or purchased for the purpose of producing beer, nor shall the quantity of materials so used or purchased be evidence, for the purpose of taxation, of the quantity of beer produced; but the tax on all beer shall be paid as provided in section 5054, and not otherwise; except that this subsection shall not apply to cases of fraud, and nothing in this subsection shall have the effect to change the rules of law respecting evidence in any prosecution or suit.

(c) Illegally produced beer

The production of any beer at any place in the United States shall be subject to tax at the rate prescribed in subsection (a) and such tax shall be due and payable as provided in section 5054(a)(3) unless—

(1) such beer is produced in a brewery qualified under the provisions of subchapter G, or

(2) such production is exempt from tax under section 5053(e) (relating to beer for personal or family use).

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1333; amended Pub. L. 86-75, §3(a)(6), June 30, 1959, 73 Stat. 157; Pub. L. 86-564, title II, §202(a)(8), June 30, 1960, 74 Stat. 290; Pub. L. 87-72, §3(a)(8), June 30, 1961, 75 Stat. 193; Pub. L. 87-508, §3(a)(7), June 28, 1962, 76 Stat. 114; Pub. L. 88-52, §3(a)(8), June 29, 1963, 77 Stat. 72; Pub. L. 88-348, §2(a)(8), June 30, 1964, 78 Stat. 237; Pub. L. 89-44, title V, §501(d), June 21, 1965, 79 Stat. 150; Pub. L. 94-529, §1, Oct. 17, 1976, 90 Stat. 2485; Pub. L. 95-458, §2(b)(2)(A), Oct. 14, 1978, 92 Stat. 1256; Pub. L. 101-508, title XI, §11201(c), Nov. 5, 1990, 104 Stat. 1388-416.)

PRIOR PROVISIONS

A prior section 5051, act Aug. 16, 1954, ch. 736, 68A Stat. 611, as amended by acts Mar. 30, 1955, ch. 18, §3(a)(8), 69 Stat. 14; Mar. 29, 1956, ch. 115, §3(a)(8), 70 Stat. 66; Mar. 29, 1957, Pub. L. 85-12, §3(a)(6), 71 Stat. 9; June 30, 1958, Pub. L. 85-475, §3(a)(6), 72 Stat. 259, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1990—Subsec. (a)(1). Pub. L. 101-508, §11201(c)(1), substituted “\$18” for “\$9”.

Subsec. (a)(2)(C). Pub. L. 101-508, §11201(c)(2), added subpar. (C).

1978—Subsec. (c). Pub. L. 95-458 added subsec. (c).

1976—Subsec. (a). Pub. L. 94-529 reduced the excise tax on beer for small brewers to \$7 per barrel on the first 60,000 barrels produced in the United States and removed for sale or consumption or sale during the calendar year, the reduced rate to be applicable only to brewers producing no more than 2 million barrels of beer in a calendar year, and inserted provision that if several brewers are members of a controlled group, the 2-million barrel limit is to be applied to the controlled group and the 60,000-barrel limit is to be apportioned among the members of the controlled group in accordance with Treasury Department regulations promulgated by the Secretary or his delegate.

1965—Subsec. (a). Pub. L. 89-44 struck out sentence providing for the imposition on and after July 1, 1965, of a tax of \$8 in lieu of the tax imposed by the section.

1964—Subsec. (a). Pub. L. 88-348 substituted “July 1, 1965” for “July 1, 1964”.

1963—Subsec. (a). Pub. L. 88-52 substituted “July 1, 1964” for “July 1, 1963”.

1962—Subsec. (a). Pub. L. 87-508 substituted “July 1, 1963” for “July 1, 1962”.

1961—Subsec. (a). Pub. L. 87-72 substituted “July 1, 1962” for “July 1, 1961”.

1960—Subsec. (a). Pub. L. 86-564 substituted “July 1, 1961” for “July 1, 1960”.

1959—Subsec. (a). Pub. L. 86-75 substituted “July 1, 1960” for “July 1, 1959”.

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 1978 AMENDMENT

Amendment by Pub. L. 95-458 effective on first day of first calendar month beginning more than 90 days after Oct. 14, 1978, see section 2(c) of Pub. L. 95-458, set out as a note under section 5042 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-529, §2, Oct. 17, 1976, 90 Stat. 2486, provided that: “The amendment made by the first section of this Act [amending this section] shall take effect on the first day of the first calendar year which begins after the date of the enactment of this Act [Oct. 17, 1976].”

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by 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.

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 beer, 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.

§ 5052. Definitions

(a) Beer

For purposes of this chapter (except when used with reference to distilling or distilling material) the term beer means beer, ale, porter, stout, and other similar fermented beverages (including sake or similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor.