

EFFECTIVE DATE OF 1964 AMENDMENT

Pub. L. 88-539, § 2, Aug. 31, 1964, 78 Stat. 746, provided that: "The amendment made by the first section of this Act [amending this section] shall apply with respect to articles exported or destroyed after the date of the enactment of this Act [Aug. 31, 1964]."

[§ 5063. Repealed. Pub. L. 89-44, title V, § 501(e), June 21, 1965, 79 Stat. 150]

Section, Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1336; Pub. L. 86-75, § 3(b)(1), June 30, 1959, 73 Stat. 157; Pub. L. 86-564, title II, § 202(b)(1), June 30, 1960, 74 Stat. 290; Pub. L. 87-72, § 3(b)(1), June 30, 1961, 75 Stat. 193; Pub. L. 87-508, § 3(b)(1), June 28, 1962, 76 Stat. 114; Pub. L. 88-52, § 3(b)(1)(A), June 29, 1963, 77 Stat. 72; Pub. L. 88-348, § 2(b)(1)(A), June 30, 1964, 78 Stat. 237, made provision for floor stocks refunds on distilled spirits, wines, cordials, and beer and set out limitations on the eligibility for such refunds or credits.

A prior section 5063, act Aug. 16, 1954, ch. 736, 68A Stat. 615, consisted of provisions similar to those comprising section 5063, prior to the general revision of this chapter by Pub. L. 85-859.

EFFECTIVE DATE OF REPEAL

Repeal applicable on and after July 1, 1965, see section 701(d) of Pub. L. 89-44, set out as an Effective Date of 1965 Amendment note under section 5701 of this title.

§ 5064. Losses resulting from disaster, vandalism, or malicious mischief

(a) Payments

The Secretary, under such regulations as he may prescribe, shall pay (without interest) an amount equal to the amount of the internal revenue taxes paid or determined and customs duties paid on distilled spirits, wines, and beer previously withdrawn, which were lost, rendered unmarketable, or condemned by a duly authorized official by reason of—

- (1) fire, flood, casualty, or other disaster, or
- (2) breakage, destruction, or other damage (but not including theft) resulting from vandalism or malicious mischief,

if such disaster or damage occurred in the United States and if such distilled spirits, wines, or beer were held and intended for sale at the time of such disaster or other damage. The payments provided for in this section shall be made to the person holding such distilled spirits, wines, or beer for sale at the time of such disaster or other damage.

(b) Claims

(1) Period for making claim; proof

No claim shall be allowed under this section unless—

(A) filed within 6 months after the date on which such distilled spirits, wines, or beer were lost, rendered unmarketable, or condemned by a duly authorized official, and

(B) the claimant furnishes proof satisfactory to the Secretary that the claimant—

- (i) was not indemnified by any valid claim of insurance or otherwise in respect of the tax, or tax and duty, on the distilled spirits, wines, or beer covered by the claim; and
- (ii) is entitled to payment under this section.

(2) Minimum claim

Except as provided in paragraph (3)(A), no claim of less than \$250 shall be allowed under

this section with respect to any disaster or other damage (as the case may be).

(3) Special rules for major disasters

If the President has determined under the Robert T. Stafford Disaster Relief and Emergency Assistance Act that a "major disaster" (as defined in such Act) has occurred in any part of the United States, and if the disaster referred to in subsection (a)(1) occurs in such part of the United States by reason of such major disaster, then—

(A) paragraph (2) shall not apply, and

(B) the filing period set forth in paragraph (1)(A) shall not expire before the day which is 6 months after the date on which the President makes the determination that such major disaster has occurred.

(4) Regulations

Claims under this section shall be filed under such regulations as the Secretary shall prescribe.

(c) Destruction of distilled spirits, wines, or beer

When the Secretary has made payment under this section in respect of the tax, or tax and duty, on the distilled spirits, wines, or beer condemned by a duly authorized official or rendered unmarketable, such distilled spirits, wines, or beer shall be destroyed under such supervision as the Secretary may prescribe, unless such distilled spirits, wines, or beer were previously destroyed under supervision satisfactory to the Secretary.

(d) Products of Puerto Rico

The provisions of this section shall not be applicable in respect of distilled spirits, wines, and beer of Puerto Rican manufacture brought into the United States and so lost or rendered unmarketable or condemned.

(e) Other laws applicable

All provisions of law, including penalties, applicable in respect of internal revenue taxes on distilled spirits, wines, and beer shall, insofar as applicable and not inconsistent with this section, be applied in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of such taxes.

(Added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1337; amended Pub. L. 91-606, title III, § 301(i), Dec. 31, 1970, 84 Stat. 1759; Pub. L. 93-288, title VII, § 702(i), formerly title VI, § 602(i), May 22, 1974, 88 Stat. 164, renumbered title VII, § 702(i), Pub. L. 103-337, div. C, title XXXIV, § 3411(a)(1), (2), Oct. 5, 1994, 108 Stat. 3100; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-423, § 1(a), Oct. 6, 1978, 92 Stat. 935; Pub. L. 96-39, title VIII, § 807(a)(10), July 26, 1979, 93 Stat. 282; Pub. L. 100-707, title I, § 109(l), Nov. 23, 1988, 102 Stat. 4709; Pub. L. 108-311, title IV, § 408(a)(7)(D), Oct. 4, 2004, 118 Stat. 1191.)

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (b)(3), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For