

Another prior section 5116, act Aug. 16, 1954, ch. 736, 68A Stat. 620, related to packaging of distilled spirits for industrial uses, prior to the general revision of this chapter by Pub. L. 85-859.

A prior section 5117, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1343; amended Pub. L. 94-455, title XIX, § 1905(a)(8), Oct. 4, 1976, 90 Stat. 1819; Pub. L. 108-357, title II, § 246(b), Oct. 22, 2004, 118 Stat. 1448, related to prohibited purchases by wholesale dealers in liquors, prior to repeal by Pub. L. 109-59, title XI, § 11125(a)(1)(C), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

AMENDMENTS

2005—Pub. L. 109-59 renumbered section 5134 of this title as this section.

1996—Subsec. (c)(3). Pub. L. 104-188 substituted “section 6665(a)” for “section 6662(a)”.

1994—Subsec. (c)(1). Pub. L. 103-465 substituted “flavoring extracts, or perfume” for “or flavoring extracts”.

1984—Subsec. (c). Pub. L. 98-369 added subsec. (c).

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

1968—Subsec. (b). Pub. L. 90-615 substituted “6 months” for “3 months” in last sentence.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective Jan. 1, 1995, see section 136(d) of Pub. L. 103-465, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to products manufactured or produced after Oct. 31, 1984, see section 456(d) of Pub. L. 98-369, set out as an Effective Date note under section 5101 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Pub. L. 90-615, § 2(b), Oct. 21, 1968, 82 Stat. 1210, provided that: “The amendment made by subsection (a) [amending this section] shall apply to claims filed on or after the date of the enactment of this Act [Oct. 21, 1968].”

SUBPART C—RECORDKEEPING AND REGISTRATION BY DEALERS

- Sec.
- 5121. Recordkeeping by wholesale dealers.
- 5122. Recordkeeping by retail dealers.
- 5123. Preservation and inspection of records, and entry of premises for inspection.
- 5124. Registration by dealers.

PRIOR PROVISIONS

A prior subpart C was redesignated subpart A of this part.

Another prior subpart C, consisting of sections 5101 to 5106, related to manufacturers of stills, prior to the general revision of this subpart by Pub. L. 98-369, div. A, title IV, § 451(a), July 18, 1984, 98 Stat. 818.

Another prior subpart C, consisting of sections 5101 to 5106, related to manufacturers of stills, prior to the general revision of this chapter by Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1313.

AMENDMENTS

2005—Pub. L. 109-59, title XI, § 11125(b)(4), Aug. 10, 2005, 119 Stat. 1954, added subpart heading and items 5121 to 5124.

§ 5121. Recordkeeping by wholesale dealers

(a) Requirements

(1) Distilled spirits

Every wholesale dealer in liquors who sells distilled spirits to other dealers shall keep

daily a record of distilled spirits received and disposed of by him, in such form and at such place and containing such information, and shall submit correct summaries of such records to the Secretary at such time and in such form and manner, as the Secretary shall by regulations prescribe. Such dealer shall also submit correct extracts from or copies of such records, at such time and in such form and manner as the Secretary may by regulations prescribe; however, the Secretary may on application by such dealer, in accordance with such regulations, relieve him from this requirement until further notice, whenever the Secretary deems that the submission of such extracts or copies serves no useful purpose in law enforcement or in protection of the revenue.

(2) Wines and beer

Every wholesale dealer in liquors and every wholesale dealer in beer shall provide and keep, at such place as the Secretary shall by regulations prescribe, a record in book form of all wines and beer received, showing the quantities thereof and from whom and the dates received, or shall keep all invoices of, and bills for, all wines and beer received.

(b) Exemption of States, political subdivisions, etc.

The provision of subsection (a) shall not apply to a State, to a political subdivision of a State, to the District of Columbia, or to liquor stores operated by any of them, if they maintain and make available for inspection by internal revenue officers such records as will enable such officers to trace all distilled spirits, wines, and beer received, and all distilled spirits disposed of by them. Such States, subdivisions, District, or liquor stores shall, upon the request of the Secretary, furnish him such transcripts, summaries and copies of their records with respect to distilled spirits as he shall require.

(c) Wholesale dealers

For purposes of this part—

(1) Wholesale dealer in liquors

The term “wholesale dealer in liquors” means any dealer (other than a wholesale dealer in beer) who sells, or offers for sale, distilled spirits, wines, or beer, to another dealer.

(2) Wholesale dealer in beer

The term “wholesale dealer in beer” means any dealer who sells, or offers for sale, beer, but not distilled spirits or wines, to another dealer.

(3) Dealer

The term “dealer” means any person who sells, or offers for sale, any distilled spirits, wines, or beer.

(4) Presumption in case of sale of 20 wine gallons or more

The sale, or offer for sale, of distilled spirits, wines, or beer, in quantities of 20 wine gallons or more to the same person at the same time, shall be presumptive evidence that the person making such sale, or offer for sale, is engaged in or carrying on the business of a wholesale

dealer in liquors or a wholesale dealer in beer, as the case may be. Such presumption may be overcome by evidence satisfactorily showing that such sale, or offer for sale, was made to a person other than a dealer.

(d) Cross references

(1) For provisions requiring proprietors of distilled spirits plants to keep records and submit reports of receipts and dispositions of distilled spirits, see section 5207.

(2) For penalty for violation of subsection (a), see section 5603.

(3) For provisions relating to the preservation and inspection of records, and entry of premises for inspection, see section 5123.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1342, §5114; amended Pub. L. 94-455, title XIX, §§1905(c)(1), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1823, 1834; renumbered §5121 and amended Pub. L. 109-59, title XI, §11125(b)(5), Aug. 10, 2005, 119 Stat. 1954; Pub. L. 110-172, §11(a)(31), Dec. 29, 2007, 121 Stat. 2487.)

PRIOR PROVISIONS

A prior section 5121, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1343; amended Pub. L. 94-455, title XIX, §1905(a)(9), (b)(3)(C), Oct. 4, 1976, 90 Stat. 1819, 1822; Pub. L. 100-203, title X, §10512(c), Dec. 22, 1987, 101 Stat. 1330-448, related to special tax on retail dealers in liquors or beer, prior to repeal by Pub. L. 109-59, title XI, §11125(a)(1)(D), (c), Aug. 10, 2005, 119 Stat. 1953, 1957, effective July 1, 2008, but inapplicable to taxes imposed for periods before such date.

Another prior section 5121, act Aug. 16, 1954, ch. 736, 68A Stat. 621, related to tax on retail dealers in liquors or beer, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

2007—Pub. L. 110-172, which directed amendment of this title by redesignating section 5432 as section 5121, was executed by making correction to amendment by Pub. L. 109-59, §11125(b)(5)(B)(i). See 2005 Amendment note below.

2005—Pub. L. 109-59, §11125(b)(5)(B)(i), which directed amendment of section 5114 of this title by substituting “§5432. Recordkeeping by wholesale dealers” for “§5114. Records” in section catchline, was executed by substituting “§5121. Recordkeeping by wholesale dealers” for “§5114. Records”, to reflect the probable intent of Congress and the subsequent amendment by Pub. L. 110-172. See 2007 Amendment note above.

Pub. L. 109-59, §11125(b)(5)(A), transferred section 5114 of this title to this subpart so as to appear after subpart analysis.

Subsecs. (c), (d). Pub. L. 109-59, §11125(b)(5)(B)(ii), added subsec. (c) and redesignated former subsec. (c) as (d).

Subsec. (d)(3). Pub. L. 109-59, §11125(b)(5)(C), substituted “section 5123” for “section 5146”.

1976—Subsec. (a). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

Subsec. (b). Pub. L. 94-455, §§1905(c)(1), 1906(b)(13)(A), struck out “or Territory” after “a State”, “Territories” after “States,”, and “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.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(c)(1) of 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.

§ 5122. Recordkeeping by retail dealers

(a) Receipts

Every retail dealer in liquors and every retail dealer in beer shall provide and keep in his place of business a record in book form of all distilled spirits, wines, and beer received, showing the quantity thereof and from whom and the dates received, or shall keep all invoices of, and bills for, all distilled spirits, wines, and beer received.

(b) Dispositions

When he deems it necessary for law enforcement purposes or the protection of the revenue, the Secretary may by regulations require retail dealers in liquors and retail dealers in beer to keep records of the disposition of distilled spirits, wines, or beer, in such form or manner and of such quantities as the Secretary may prescribe.

(c) Retail dealers

For purposes of this section—

(1) Retail dealer in liquors

The term “retail dealer in liquors” means any dealer (other than a retail dealer in beer or a limited retail dealer) who sells, or offers for sale, distilled spirits, wines, or beer, to any person other than a dealer.

(2) Retail dealer in beer

The term “retail dealer in beer” means any dealer (other than a limited retail dealer) who sells, or offers for sale, beer, but not distilled spirits or wines, to any person other than a dealer.

(3) Limited retail dealer

The term “limited retail dealer” means any fraternal, civic, church, labor, charitable, benevolent, or ex-servicemen’s organization making sales of distilled spirits, wine or beer on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it, or any person making sales of distilled spirits, wine or beer to the members, guests, or patrons of bona fide fairs, reunions, picnics, carnivals, or other similar outings, if such organization or person is not otherwise engaged in business as a dealer.

(4) Dealer

The term “dealer” has the meaning given such term by section 5121(c)(3).

(d) Cross references

For provisions relating to the preservation and inspection of records, and entry of premises for inspection, see section 5123.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1345, §5124; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; renumbered §5122 and amended Pub. L. 109-59, title XI, §11125(b)(6), Aug. 10, 2005, 119 Stat. 1955.)

PRIOR PROVISIONS

A prior section 5122, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1344; amended Pub. L. 94-455, title XIX, §1905(a)(10), Oct. 4, 1976, 90 Stat. 1819, defined