

agency Assistance Act, that a “major disaster” as defined in such Act has occurred in any part of the United States, the Secretary shall pay (without interest) an amount equal to the amount of the internal revenue taxes paid or determined and customs duties paid on tobacco products and cigarette papers and tubes removed, which were lost, rendered unmarketable, or condemned by a duly authorized official by reason of such disaster occurring in such part of the United States on and after the effective date of this section, if such tobacco products or cigarette papers or tubes were held and intended for sale at the time of such disaster. The payments authorized by this section shall be made to the person holding such tobacco products or cigarette papers or tubes for sale at the time of the disaster.

(b) Claims

No claim shall be allowed under this section unless—

(1) filed within 6 months after the date on which the President makes the determination that the disaster referred to in subsection (a) has occurred; and

(2) the claimant furnishes proof to the satisfaction of the Secretary that—

(A) he was not indemnified by any valid claim of insurance or otherwise in respect of the tax, or tax and duty, on the tobacco products or cigarette papers or tubes covered by the claim, and

(B) he is entitled to payment under this section.

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

(c) Destruction of tobacco products or cigarette papers or tubes

Before the Secretary makes payment under this section in respect of the tax, or tax and duty, on the tobacco products or cigarette papers or tubes condemned by a duly authorized official or rendered unmarketable, such tobacco products or cigarette papers or tubes shall be destroyed under such supervision as the Secretary may prescribe, unless such tobacco products or cigarette papers or tubes were previously destroyed under supervision satisfactory to the Secretary.

(d) Other laws applicable

All provisions of law, including penalties, applicable in respect of internal revenue taxes on tobacco products and cigarette papers and tubes 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, §202, Sept. 2, 1958, 72 Stat. 1420; amended Pub. L. 91-606, title III, §301(j), Dec. 31, 1970, 84 Stat. 1759; Pub. L. 93-288, title VII, §702(j), formerly title VI, §602(j), May 22, 1974, 88 Stat. 164, renumbered title VII, §702(j), 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. 100-707, title I, §109(l), Nov. 23,

1988, 102 Stat. 4709; Pub. L. 108-311, title IV, §408(a)(7)(E), Oct. 4, 2004, 118 Stat. 1191.)

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (a), 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 complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-311 inserted “Robert T. Stafford” before “Disaster Relief and Emergency Assistance Act”.

1988—Subsec. (a). Pub. L. 100-707 substituted “and Emergency Assistance Act” for “Act of 1974”.

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

1974—Subsec. (a). Pub. L. 93-288 substituted “Disaster Relief Act of 1974” for “Disaster Relief Act of 1970”.

1970—Subsec. (a). Pub. L. 91-606 substituted “Disaster Relief Act of 1970” for “Act of September 30, 1950 (42 U.S.C. 1855)”.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-288 effective Apr. 1, 1974, see section 605 of Pub. L. 93-288, formerly set out as an Effective Date note under section 5121 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-606 effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as a note under section 165 of this title.

EFFECTIVE DATE

Section effective Sept. 3, 1958, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

LOSSES OF TOBACCO PRODUCTS CAUSED BY DISASTER

Pub. L. 85-859, title II, §209, Sept. 2, 1958, 72 Stat. 1434, authorized payments, without interest, of amounts equal to internal revenue taxes and customs duties paid by persons suffering a major disaster, pursuant to former act Sept. 30, 1950, ch. 1125, 64 Stat. 1109, for disasters occurring in the United States after Dec. 31, 1954, and before Sept. 2, 1958, in respect to tobacco products and cigarette papers and tubes; specified persons to whom the payments would be made and the procedure for allowance of claims; required the destruction of such tobacco products and cigarette papers and tubes under supervision; and made other laws applicable to such payments insofar as not inconsistent with section 209 of Pub. L. 85-859.

Subchapter B—Qualification Requirements for Manufacturers and Importers of Tobacco Products and Cigarette Papers and Tubes, and Export Warehouse Proprietors

Sec. 5711.	Bond.
5712.	Application for permit.
5713.	Permit.

AMENDMENTS

1997—Pub. L. 105-33, title IX, §9302(h)(2)(C), Aug. 5, 1997, 111 Stat. 674, inserted “and Importers” after “Manufacturers” in subchapter heading.

1965—Pub. L. 89-44, title V, §502(b)(5), June 21, 1965, 79 Stat. 151, struck out reference to dealers in tobacco materials from subchapter heading.

§ 5711. Bond

(a) When required

Every person, before commencing business as a manufacturer of tobacco products or cigarette

papers and tubes, or as an export warehouse proprietor, shall file such bond, conditioned upon compliance with this chapter and regulations issued thereunder, in such form, amount, and manner as the Secretary shall by regulation prescribe. A new or additional bond may be required whenever the Secretary considers such action necessary for the protection of the revenue.

(b) Approval or disapproval

No person shall engage in such business until he receives notice of approval of such bond. A bond may be disapproved, upon notice to the principal on the bond, if the Secretary determines that the bond is not adequate to protect the revenue.

(c) Cancellation

Any bond filed hereunder may be canceled, upon notice to the principal on the bond, whenever the Secretary determines that the bond no longer adequately protects the revenue.

(Aug. 16, 1954, ch. 736, 68A Stat. 711; Pub. L. 85-859, title II, § 202, Sept. 2, 1958, 72 Stat. 1421; Pub. L. 89-44, title V, § 502(b)(6), June 21, 1965, 79 Stat. 151; 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” wherever appearing.

1965—Subsec. (a). Pub. L. 89-44 struck out reference to dealers in tobacco materials.

1958—Subsec. (a). Pub. L. 85-859 included export warehouse proprietors, and substituted “manufacturer of tobacco products or cigarette papers and tubes” for “manufacturer of articles”.

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.

TRANSITIONAL RULE

Pub. L. 111-3, title VII, § 702(g), Feb. 4, 2009, 123 Stat. 111, provided that: “Any person who—

“(1) on April 1, 2009[,] is engaged in business as a manufacturer of processed tobacco or as an importer of processed tobacco, and

“(2) before the end of the 90-day period beginning on such date, submits an application under subchapter B of chapter 52 of such Code [this subchapter] to engage in such business, may, notwithstanding such subchapter B, continue to engage in such business pending final action on such application. Pending such final action, all provisions of such chapter 52 [this chapter] shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit under such chapter 52 to engage in such business.”

§ 5712. Application for permit

Every person, before commencing business as a manufacturer or importer of tobacco products or processed tobacco or as an export warehouse proprietor, and at such other time as the Secretary shall by regulation prescribe, shall make application for the permit provided for in sec-

tion 5713. The application shall be in such form as the Secretary shall prescribe and shall set forth, truthfully and accurately, the information called for on the form. Such application may be rejected and the permit denied if the Secretary, after notice and opportunity for hearing, find that—

(1) the premises on which it is proposed to conduct the business are not adequate to protect the revenue;

(2) the activity proposed to be carried out at such premises does not meet such minimum capacity or activity requirements as the Secretary may prescribe,¹ or

(3) such person (including, in the case of a corporation, any officer, director, or principal stockholder and, in the case of a partnership, a partner)—

(A) is, by reason of his business experience, financial standing, or trade connections or by reason of previous or current legal proceedings involving a felony violation of any other provision of Federal criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, not likely to maintain operations in compliance with this chapter,

(B) has been convicted of a felony violation of any provision of Federal or State criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, or

(C) has failed to disclose any material information required or made any material false statement in the application therefor.

(Aug. 16, 1954, ch. 736, 68A Stat. 712; Pub. L. 85-859, title II, § 202, Sept. 2, 1958, 72 Stat. 1421; Pub. L. 94-455, title XIX, §§ 1905(a)(27), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1821, 1834; Pub. L. 105-33, title IX, § 9302(h)(2)(A), (5), Aug. 5, 1997, 111 Stat. 674; Pub. L. 111-3, title VII, § 702(a)(1)(A), (b)(1), Feb. 4, 2009, 123 Stat. 108, 109.)

AMENDMENTS

2009—Pub. L. 111-3, § 702(a)(1)(A), inserted “or processed tobacco” after “tobacco products” in introductory provisions.

Par. (3). Pub. L. 111-3, § 702(b)(1), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “such person (including, in the case of a corporation, any officer, director, or principal stockholder and, in the case of a partnership, a partner) is, by reason of his business experience, financial standing, or trade connections, not likely to maintain operations in compliance with this chapter, or has failed to disclose any material information required or made any material false statement in the application therefor.”

1997—Pub. L. 105-33, § 9302(h)(5), struck out “or” at end of par. (1), added par. (2), and redesignated former par. (2) as (3).

Pub. L. 105-33, § 9302(h)(2)(A), inserted “or importer” after “manufacturer” in introductory provisions.

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” and struck out provision that no person subject to this section, who was lawfully engaged in business on the date of the enactment of the Excise Tax Technical Changes Act of 1958, be denied the right to carry on that business pending reasonable opportunity to make applications for permit and final action thereon.

¹ So in original. The comma probably should be a semicolon.