

Subchapter C—Operations by Manufacturers and Importers of Tobacco Products and Cigarette Papers and Tubes and Export Warehouse Proprietors

Sec.	
5721.	Inventories.
5722.	Reports.
5723.	Packages, marks, labels, and notices.

AMENDMENTS

1976—Pub. L. 94-455, title XIX, §1905(b)(7)(D), Oct. 4, 1976, 90 Stat. 1823, substituted “and notices” for “notices, and stamps” in item 5723.

1958—Pub. L. 85-859, title II, §202, Sept. 2, 1958, 72 Stat. 1422, substituted “Manufacturers and Importers of Tobacco Products and Cigarette Papers and Tubes and Export Warehouse Proprietors” for “Manufacturers of Articles” in heading of subchapter and inserted “marks,” in item 5723.

§ 5721. Inventories

Every manufacturer or importer of tobacco products, processed tobacco, or cigarette papers and tubes, and every export warehouse proprietor, shall make a true and accurate inventory at the time of commencing business, at the time of concluding business, and at such other times, in such manner and form, and to include such items, as the Secretary shall by regulation prescribe. Such inventories shall be subject to verification by any internal revenue officer.

(Aug. 16, 1954, ch. 736, 68A Stat. 713; Pub. L. 85-859, title II, §202, Sept. 2, 1958, 72 Stat. 1422; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105-33, title IX, §9302(h)(2)(A), Aug. 5, 1997, 111 Stat. 674; Pub. L. 111-3, title VII, §702(a)(2)(A), Feb. 4, 2009, 123 Stat. 108.)

AMENDMENTS

2009—Pub. L. 111-3 inserted “, processed tobacco,” after “tobacco products”.

1997—Pub. L. 105-33 inserted “or importer” after “manufacturer”.

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

1958—Pub. L. 85-859 substituted “manufacturer of tobacco products or cigarette papers and tubes” for “manufacturer of articles” and “internal revenue officer” for “revenue officer” and inserted provisions to include export warehouse proprietors.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-3 effective Apr. 1, 2009, see section 702(a)(6) of Pub. L. 111-3, set out as a note under section 5702 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 applicable to articles removed, as defined in section 5702(j) of this title, after Dec. 31, 1999, with transition rule, see section 9302(i) of Pub. L. 105-33, 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.

§ 5722. Reports

Every manufacturer or importer of tobacco products, processed tobacco, or cigarette papers and tubes, and every export warehouse propri-

etor, shall make reports containing such information, in such form, at such times, and for such periods as the Secretary shall by regulation prescribe.

(Aug. 16, 1954, ch. 736, 68A Stat. 713; Pub. L. 85-859, title II, §202, Sept. 2, 1958, 72 Stat. 1422; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105-33, title IX, §9302(h)(2)(A), Aug. 5, 1997, 111 Stat. 674; Pub. L. 111-3, title VII, §702(a)(2)(B), Feb. 4, 2009, 123 Stat. 108.)

AMENDMENTS

2009—Pub. L. 111-3 inserted “, processed tobacco,” after “tobacco products”.

1997—Pub. L. 105-33 inserted “or importer” after “manufacturer”.

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

1958—Pub. L. 85-859 substituted “manufacturer of tobacco products or cigarette papers and tubes, and every export warehouse proprietor” for “manufacturer of articles”.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-3 effective Apr. 1, 2009, see section 702(a)(6) of Pub. L. 111-3, set out as a note under section 5702 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 applicable to articles removed, as defined in section 5702(j) of this title, after Dec. 31, 1999, with transition rule, see section 9302(i) of Pub. L. 105-33, 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.

§ 5723. Packages, marks, labels, and notices

(a) Packages

All tobacco products, processed tobacco, and cigarette papers and tubes shall, before removal, be put up in such packages as the Secretary shall by regulation prescribe.

(b) Marks, labels, and notices

Every package of tobacco products, processed tobacco, or cigarette papers or tubes shall, before removal, bear the marks, labels, and notices if any, that the Secretary by regulation prescribes.

(c) Lottery features

No certificate, coupon, or other device purporting to be or to represent a ticket, chance, share, or an interest in, or dependent on, the event of a lottery shall be contained in, attached to, or stamped, marked, written, or printed on any package of tobacco products, processed tobacco, or cigarette papers or tubes.

(d) Indecent or immoral material prohibited

No indecent or immoral picture, print, or representation shall be contained in, attached to, or stamped, marked, written, or printed on any package of tobacco products, processed tobacco, or cigarette papers or tubes.

(e) Exceptions

Tobacco products furnished by manufacturers of such products for use or consumption by their

employees, or for experimental purposes, and tobacco products, processed tobacco, and cigarette papers and tubes transferred to the bonded premises of another manufacturer or export warehouse proprietor or released in bond from customs custody for deliver to a manufacturer of tobacco products, processed tobacco, or cigarette papers and tubes, may be exempted from subsection (a) and (b) in accordance with such regulations as the Secretary shall prescribe.

(Aug. 16, 1954, ch. 736, 68A Stat. 713; Pub. L. 85-859, title II, § 202, Sept. 2, 1958, 72 Stat. 1422; Pub. L. 94-455, title XIX, §§ 1905(a)(28), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1821, 1834; Pub. L. 111-3, title VII, § 702(a)(2)(C), Feb. 4, 2009, 123 Stat. 108.)

AMENDMENTS

2009—Pub. L. 111-3 inserted “, processed tobacco,” after “tobacco products” wherever appearing.

1976—Pub. L. 94-455, § 1905(a)(28)(A), substituted “and notices” for “notices, and stamps” in section catchline.

Subsecs. (a), (e). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (b). Pub. L. 94-455, §§ 1905(a)(28)(B), 1906(b)(13)(A), struck out references to stamps in heading and in text and struck out “or his delegate” after “Secretary”.

1958—Subsec. (a). Pub. L. 85-859 substituted “Packages” for “Packages, labels, notices, and stamps” in heading, and substituted “All tobacco products and cigarette papers and tubes shall, before removal, be put up in such packages as” for “All articles shall, before removal, be put up in packages having such labels, notices, and stamps as” in text.

Subsec. (b). Pub. L. 85-859 added subsec. (b) and redesignated former subsec. (b) as (c).

Subsec. (c). Pub. L. 85-859 redesignated former subsec. (b) as (c) and substituted “tobacco products or cigarette papers or tubes” for “articles”. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 85-859 redesignated former subsec. (c) as (d) and substituted “tobacco products or cigarette papers or tubes” for “articles”. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 85-859 redesignated former subsec. (d) as (e), and permitted exemption of tobacco products and cigarette papers and tubes transferred to the bonded premises of another manufacturer or export warehouse proprietor or released in bond from customs custody for delivery to a manufacturer of tobacco products or cigarette papers and tubes, and eliminated provisions which authorized exemption of articles removed for shipment to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, and so shipped.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-3 effective Apr. 1, 2009, see section 702(a)(6) of Pub. L. 111-3, set out as a note under section 5702 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(a)(28) 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.

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.

Subchapter D—Occupational Tax

Sec.
5731. Imposition and rate of tax.

Sec.
5732. Payment of tax.
5733. Provisions relating to liability for occupational taxes.
5734. Application of State laws.

PRIOR PROVISIONS

A prior subchapter D, relating to records of manufacturers and importers of tobacco products, etc., was redesignated subchapter E by Pub. L. 100-203, title X, § 10512(f)(1), Dec. 22, 1987, 101 Stat. 1330-449.

Another prior subchapter D, which consisted of sections 5731 and 5732 of this title, was repealed by Pub. L. 89-44, title V, § 502(b)(7), June 21, 1965, 79 Stat. 151, applicable on and after Jan. 1, 1966.

AMENDMENTS

2005—Pub. L. 109-59, title XI, § 11125(b)(20)(D), Aug. 10, 2005, 119 Stat. 1957, added items 5732 to 5734.

§ 5731. Imposition and rate of tax

(a) General rule

Every person engaged in business as—

- (1) a manufacturer of tobacco products,
- (2) a manufacturer of cigarette papers and tubes, or
- (3) an export warehouse proprietor,

shall pay a tax of \$1,000 per year in respect of each premises at which such business is carried on.

(b) Reduced rates for small proprietors

(1) In general

Subsection (a) shall be applied by substituting “\$500” for “\$1,000” with respect to any taxpayer the gross receipts of which (for the most recent taxable year ending before the 1st day of the taxable period to which the tax imposed by subsection (a) relates) are less than \$500,000.

(2) Controlled group rules

All persons treated as 1 taxpayer under section 5061(e)(3) shall be treated as 1 taxpayer for purposes of paragraph (1).

(3) Certain rules to apply

For purposes of paragraph (1), rules similar to the rules of subparagraphs (B) and (C) of section 448(c)(3) shall apply.

(c) Penalty for failure to register

Any person engaged in a business referred to in subsection (a) who willfully fails to pay the tax imposed by subsection (a) shall be fined not more than \$5,000, or imprisoned not more than 2 years, or both, for each such offense.

(Added Pub. L. 100-203, title X, § 10512(f)(1), Dec. 22, 1987, 101 Stat. 1330-449; amended Pub. L. 109-59, title XI, § 11125(b)(20)(E), Aug. 10, 2005, 119 Stat. 1957.)

PRIOR PROVISIONS

A prior section 5731, acts Aug. 16, 1954, ch. 736, 68A Stat. 714; Sept. 2, 1958, Pub. L. 85-859, title II, § 202, 72 Stat. 1423, restricted shipment and delivery of tobacco materials to shipment and delivery pursuant to regulations, prior to repeal by Pub. L. 89-44, title V, § 502(b)(7), title VII, § 701(d), June 21, 1965, 79 Stat. 151, 157, applicable on and after Jan. 1, 1966.

AMENDMENTS

2005—Subsecs. (c), (d). Pub. L. 109-59 redesignated subsec. (d) as (c) and struck out former subsec. (c). Text