

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.

§ 5763. Forfeitures

(a) Tobacco products and cigarette papers and tubes unlawfully possessed

(1) Tobacco products and cigarette papers and tubes possessed with intent to defraud

All tobacco products and cigarette papers and tubes which, after removal, are possessed with intent to defraud the United States shall be forfeited to the United States.

(2) Tobacco products and cigarette papers and tubes not property packaged

All tobacco products and cigarette papers and tubes not in packages as required under section 5723 or which are in packages not bearing the marks, labels, and notices, as required under such section, which, after removal, are possessed otherwise than with intent to defraud the United States, shall be forfeited to the United States. This paragraph shall not apply to tobacco products or cigarette papers or tubes sold or delivered directly to consumers from proper packages.

(b) Personal property of qualified manufacturers, qualified importers, and export warehouse proprietors, acting with intent to defraud

All tobacco products and cigarette papers and tubes, packages, machinery, fixtures, equipment, and all other materials and personal property on the premises of any qualified manufacturer or importer of tobacco products or cigarette papers and tubes, or export warehouse proprietor, who, with intent to defraud the United States, fails to keep or make any record, return, report, or inventory, or keeps or makes any false or fraudulent record, return, report, or inventory, required by this chapter; or refuses to pay any tax imposed by this chapter, or attempts in any manner to evade or defeat the tax or the payment thereof; or removes, contrary to any provision of this chapter, any article subject to tax under this chapter, shall be forfeited to the United States.

(c) Real and personal property of illicit operators

All tobacco products, cigarette papers and tubes, machinery, fixtures, equipment, and other materials and personal property on the premises of any person engaged in business as a manufacturer or importer of tobacco products or cigarette papers and tubes, or export warehouse proprietor, without filing the bond or obtaining the permit, as required by this chapter, together with all his right, title, and interest in the building in which such business is conducted, and the lot or tract of ground on which the building is located, shall be forfeited to the United States.

(d) General

All property intended for use in violating the provisions of this chapter, or regulations thereunder, or which has been so used, shall be for-

feited to the United States as provided in section 7302.

(Aug. 16, 1954, ch. 736, 68A Stat. 718; Pub. L. 85-859, title II, §202, Sept. 2, 1958, 72 Stat. 1426; Pub. L. 89-44, title V, §502(b)(13), June 21, 1965, 79 Stat. 152; Pub. L. 94-455, title XIX, §1905(b)(7)(C), Oct. 4, 1976, 90 Stat. 1823; Pub. L. 105-33, title IX, §9302(h)(2)(A), (B), Aug. 5, 1997, 111 Stat. 674.)

AMENDMENTS

1997—Subsec. (b). Pub. L. 105-33 inserted “qualified importers,” after “manufacturers,” in heading and “or importer” after “manufacturer” in text.

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

1976—Subsec. (a)(2). Pub. L. 94-455, §1905(b)(7)(C)(i), substituted “and notices” for “notices, and stamps”.

Subsec. (b). Pub. L. 94-455, §1905(b)(7)(C)(ii), struck out “internal revenue stamps,” after “packages.”

1965—Subsec. (b). Pub. L. 89-44, §502(b)(13)(A), struck out references to tobacco materials, dealers in tobacco materials, and statements.

Subsec. (c). Pub. L. 89-44, §502(b)(13)(B), struck out references to tobacco materials and dealers in tobacco materials.

1958—Subsec. (a). Pub. L. 85-859 substituted “tobacco products and cigarette papers and tubes” for “articles” wherever appearing and inserted provisions making par. (2) inapplicable to tobacco products or cigarette papers for tubes delivered directly to consumers from proper packages.

Subsecs. (b), (c). Pub. L. 85-859 included property of export warehouse proprietors.

Subsec. (d). Pub. L. 85-859 included property intended for use, or used, in violating regulations under this chapter.

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 1976 AMENDMENT

Amendment by 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 1965 AMENDMENT

Amendment by Pub. L. 89-44 applicable on and after Jan. 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 on 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.

CHAPTER 53—MACHINE GUNS, DESTRUCTIVE DEVICES, AND CERTAIN OTHER FIREARMS

Table with 2 columns: Subchapter and Sec.1. Rows include A. Taxes (5801), B. General provisions and exemptions (5841), C. Prohibited acts (5861), and D. Penalties and forfeitures (5871).

PRIOR PROVISIONS

A prior chapter 53, act Aug. 16, 1954, ch. 736, 68A Stat. 721, was generally revised by Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1227. The analysis reflects changes:

1 Section numbers editorially supplied.

“Machine Guns, Destructive Devices, and Certain Other Firearms” for “Machine Guns and Certain Other Firearms” in the chapter heading;

“General provisions and exemptions” for “General provisions” in subchapter B;

“Prohibited acts” for “Unlawful acts” in subchapter C.

Subchapter A—Taxes

- Part
I. Special (occupational) taxes.
II. Tax on transferring firearms.
III. Tax on making firearms.

PRIOR PROVISIONS

A prior subchapter A consisted of parts I to IV, prior to the general revision of this chapter by Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1227.

PART I—SPECIAL (OCCUPATIONAL) TAXES

- Sec.
5801. Imposition of tax.
5802. Registration of importers, manufacturers, and dealers.

PRIOR PROVISIONS

A prior part I, act Aug. 16, 1964, ch. 736, 68A Stat. 721, and amended thereafter, consisted of sections 5801 to 5803, prior to the general revision of this chapter by Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1228.

AMENDMENTS

1987—Pub. L. 100-203, title X, §10512(g)(2), Dec. 22, 1987, 101 Stat. 1330-450, substituted “Imposition of tax” for “Tax” in item 5801.

§ 5801. Imposition of tax

(a) General rule

On 1st engaging in business and thereafter on or before July 1 of each year, every importer, manufacturer, and dealer in firearms shall pay a special (occupational) tax for each place of business at the following rates:

- (1) Importers and manufacturers: \$1,000 a year or fraction thereof.
- (2) Dealers: \$500 a year or fraction thereof.

(b) Reduced rates of tax for small importers and manufacturers

(1) In general

Paragraph (1) of 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.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1227; amended Pub. L. 100-203, title X, §10512(g)(1), Dec. 22, 1987, 101 Stat. 1330-449.)

PRIOR PROVISIONS

A prior section 5801, acts Aug. 16, 1954, ch. 736, 68A Stat. 721; Sept. 2, 1958, Pub. L. 85-859, title II, §203(a),

72 Stat. 1427; June 1, 1960, Pub. L. 86-478, §1, 74 Stat. 149, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

1987—Pub. L. 100-203 substituted “Imposition of tax” for “Tax” in section catchline and amended text generally. Prior to amendment, text read as follows: “On first engaging in business and thereafter on or before the first day of July of each year, every importer, manufacturer, and dealer in firearms shall pay a special (occupational) tax for each place of business at the following rates:

- “(1) Importers.—\$500 a year or fraction thereof;
- “(2) Manufacturers.—\$500 a year or fraction thereof;
- “(3) Dealers.—\$200 a year or fraction thereof.

Except an importer, manufacturer, or dealer who imports, manufactures, or deals in only weapons classified as ‘any other weapon’ under section 5845(e), shall pay a special (occupational) tax for each place of business at the following rates: Importers, \$25 a year or fraction thereof; manufacturers, \$25 a year or fraction thereof; dealers, \$10 a year or fraction thereof.”

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 effective Jan. 1, 1988, see section 10512(h) of Pub. L. 100-203, set out as a note under section 5111 of this title.

EFFECTIVE DATE

Pub. L. 90-618, title II, §207, Oct. 22, 1968, 82 Stat. 1235, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(a) Section 201 of this title [enacting this chapter] shall take effect on the first day of the first month following the month in which it is enacted [October 1968].

“(b) Notwithstanding the provisions of subsection (a) or any other provision of law, any person possessing a firearm as defined in section 5845(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by this title) which is not registered to him in the National Firearms Registration and Transfer Record shall register each firearm so possessed with the Secretary of the Treasury or his delegate in such form and manner as the Secretary or his delegate may require within the thirty days immediately following the effective date of section 201 of this Act [see subsec. (a) of this section]. Such registrations shall become a part of the National Firearms Registration and Transfer Record required to be maintained by section 5841 of the Internal Revenue Code of 1986 (as amended by this title). No information or evidence required to be submitted or retained by a natural person to register a firearm under this section shall be used, directly or indirectly, as evidence against such person in any criminal proceeding with respect to a prior or concurrent violation of law.

“(c) The amendments made by sections 202 through 206 of this title [amending sections 6806 and 7273 of this title, repealing sections 5692 and 6107 of this title, and enacting provisions set out as a note under this section] shall take effect on the date of enactment [Oct. 22, 1968].

“(d) The Secretary of the Treasury, after publication in the Federal Register of his intention to do so, is authorized to establish such period of amnesty, not to exceed ninety days in the case of any single period, and immunity from liability during any such period, as the Secretary determines will contribute to the purposes of this title [adding this chapter, and sections 6806 and 7273 of this title, repealing sections 5692 and 6107 of this title, and enacting provisions set out as notes under this section].”

§ 5802. Registration of importers, manufacturers, and dealers

On first engaging in business and thereafter on or before the first day of July of each year, each