

out “or his delegate” after “Secretary”. Former subsec. (c), relating to the use of stamps as evidence of the payment of taxes, was struck out.

Subsecs. (d), (e). Pub. L. 94-455, §§1905(a)(25)(C), 1906(b)(13)(A), redesignated subsec. (e) as (d) and struck out “or his delegate” after “Secretary”. Former subsec. (d) redesignated (c).

1958—Subsec. (a)(1). Pub. L. 85-859 designated part of first sentence of subsec. (a) as par. (1) thereof and redesignated the remainder of subsec. (a) as (b).

Subsec. (a)(2). Pub. L. 85-859 added par. (2).

Subsec. (b). Pub. L. 85-859 designated former subsec. (a), with exception of part of the first sentence, as subsec. (b) and substituted “tobacco products and cigarette papers and tubes” for “articles”, and inserted provisions relating to postponements, and to payment of the tax on the basis of a return prior to removal of the tobacco products and cigarette papers and tubes where a person defaults in the postponed payment of the tax. Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 85-859 designated former subsec. (b) as (c) and substituted “If the Secretary or his delegate shall by regulation provide for the payment of tax by return and require the use of” for “If the Secretary or his delegate shall, by regulation, require the use”, and “tobacco products” for “articles”. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 85-859 redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 85-859 designated former subsec. (d) as (e) and permitted assessments in cases where delay may jeopardize collection of the tax, or where the amount is nominal or the result of an evident mathematical error.

#### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-3, title VII, §702(e)(2), Feb. 4, 2009, 123 Stat. 110, provided that: “The amendment made by this subsection [amending this section] shall take effect on the date of the enactment of this Act [Feb. 4, 2009].”

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective Jan. 1, 1995, see section 712(e) of Pub. L. 103-465, set out as a note under section 5061 of this title.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective as if included in the amendments made by section 8011 of the Omnibus Budget Reconciliation Act of 1986, Pub. L. 99-509, see section 2003(b)(2) of Pub. L. 100-647, set out as a note under section 5061 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

Amendment by Pub. L. 99-509 applicable to removals during semimonthly periods ending on or after Dec. 31, 1986, except as otherwise provided, see section 8011(c) of Pub. L. 99-509, set out as a note under section 5061 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxes required to be paid on or after Sept. 30, 1984, see section 27(d)(2) of Pub. L. 98-369, set out as a note under section 5001 of this title.

#### EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 97-448, title III, §308(b), Jan. 12, 1983, 96 Stat. 2407, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to tobacco products and cigarette papers and tubes removed after December 31, 1982.”

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(a)(25) 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.

#### PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [ §§1101-1147 and 1171-1177] or title XVIII [ §§1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

### § 5704. Exemption from tax

#### (a) Tobacco products furnished for employee use or experimental purposes

Tobacco products may be furnished by a manufacturer of such products, without payment of tax, for use or consumption by employees or for experimental purposes, in such quantities, and in such manner as the Secretary shall by regulation prescribe.

#### (b) Tobacco products and cigarette papers and tubes transferred or removed in bond from domestic factories and export warehouses

A manufacturer or export warehouse proprietor may transfer tobacco products and cigarette papers and tubes, without payment of tax, to the bonded premises of another manufacturer or export warehouse proprietor, or remove such articles, without payment of tax, for shipment to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, or for consumption beyond the jurisdiction of the internal revenue laws of the United States; and manufacturers may similarly remove such articles for use of the United States; in accordance with such regulations and under such bonds as the Secretary shall prescribe. Tobacco products and cigarette papers and tubes may not be transferred or removed under this subsection unless such products or papers and tubes bear such marks, labels, or notices as the Secretary shall by regulations prescribe.

#### (c) Tobacco products and cigarette papers and tubes released in bond from customs custody

Tobacco products and cigarette papers and tubes, imported or brought into the United States, may be released from customs custody, without payment of tax, for delivery to the proprietor of an export warehouse, or to a manufacturer of tobacco products or cigarette papers and tubes if such articles are not put up in packages, in accordance with such regulations and under such bond as the Secretary shall prescribe.

#### (d) Tobacco products and cigarette papers and tubes exported and returned

Tobacco products and cigarette papers and tubes classifiable under item 804.00 of title I of the Tariff Act of 1930 (relating to duty on certain articles previously exported and returned) may be released from customs custody, without

payment of that part of the duty attributable to the internal revenue tax for delivery to the original manufacturer of such tobacco products or cigarette papers and tubes or to the proprietor of an export warehouse authorized by such manufacturer to receive such articles, in accordance with such regulations and under such bond as the Secretary shall prescribe. Upon such release such products, papers, and tubes shall be subject to this chapter as if they had not been exported or otherwise removed from internal-revenue bond.

(Aug. 16, 1954, ch. 736, 68A Stat. 708; Pub. L. 85-859, title II, §202, Sept. 2, 1958, 72 Stat. 1418; Pub. L. 88-342, §1(b), June 30, 1964, 78 Stat. 234; Pub. L. 89-44, title V, §502(b)(4), June 21, 1965, 79 Stat. 151; Pub. L. 94-455, title XIX, §§1905(a)(26), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1821, 1834; Pub. L. 99-509, title VIII, §8011(a)(2), Oct. 21, 1986, 100 Stat. 1952; Pub. L. 101-239, title VII, §7508(a), Dec. 19, 1989, 103 Stat. 2370; Pub. L. 105-33, title IX, §9302(h)(1)(A), Aug. 5, 1997, 111 Stat. 673; Pub. L. 106-476, title IV, §4002(b), Nov. 9, 2000, 114 Stat. 2177.)

#### REFERENCES IN TEXT

Item 804.00 of title I of the Tariff Act of 1930, referred to in subsec. (d), was classified to item 804.00 of the Tariff Schedules of the United States. The Tariff Schedules of the United States were replaced by the Harmonized Tariff Schedule of the United States. The Harmonized Tariff Schedule of the United States is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

#### AMENDMENTS

2000—Subsec. (d). Pub. L. 106-476 substituted “the original manufacturer of such” for “a manufacturer of” and inserted “authorized by such manufacturer to receive such articles” after “proprietor of an export warehouse”.

1997—Subsec. (b). Pub. L. 105-33 inserted at end “Tobacco products and cigarette papers and tubes may not be transferred or removed under this subsection unless such products or papers and tubes bear such marks, labels, or notices as the Secretary shall by regulations prescribe.”

1989—Subsec. (c). Pub. L. 101-239 inserted “or to a manufacturer of tobacco products or cigarette papers and tubes if such articles are not put up in packages,” after “export warehouse.”

1986—Subsec. (c). Pub. L. 99-509 struck out “to a manufacturer of tobacco products or cigarette papers and tubes or” after “for delivery”.

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

Subsecs. (c), (d). Pub. L. 94-455, §§1905(a)(26), 1906(b)(13)(A), inserted “or to the proprietor of an export warehouse” after “to a manufacturer of tobacco products or cigarette papers and tubes” and struck out “or his delegate” after “Secretary”.

1965—Subsec. (c). Pub. L. 89-44, §502(b)(4), redesignated subsec. (d) as (c), struck out all references to tobacco materials, and repealed former subsec. (c) which related to tobacco materials shipped or delivered in bond.

Subsecs. (d), (e). Pub. L. 89-44, §502(b)(4)(A), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

1964—Subsec. (e). Pub. L. 88-342 added subsec. (e).

1958—Subsec. (b). Pub. L. 85-859 included transfers by export warehouse proprietors, and substituted “tobacco products and cigarette papers and tubes” for “articles”, before “without payment of tax”.

Subsec. (c). Pub. L. 85-859 authorized shipments without payment of tax of tobacco stems and waste only, to

any person for use by him as fertilizer or insecticide or in the production of fertilizer, insecticide, or nicotine.

Subsec. (d). Pub. L. 85-859 substituted “tobacco products, cigarette papers and tubes” for “articles” wherever appearing, and struck out provisions which related to delivery to bonded premises of manufacturers and dealers.

#### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-476, title IV, §4002(d), Nov. 9, 2000, 114 Stat. 2177, provided that: “The amendments made by this section [amending this section and sections 5754 and 5761 of this title] shall take effect 90 days after the date of the enactment of this Act [Nov 9, 2000].”

#### 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 1989 AMENDMENT

Pub. L. 101-239, title VII, §7508(b), Dec. 19, 1989, 103 Stat. 2370, provided that: “The amendment made by subsection (a) [amending this section] shall apply to articles imported or brought into the United States after the date of the enactment of this Act [Dec. 19, 1989].”

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-509 applicable to articles imported, entered for warehousing, or brought into the United States or a foreign trade zone after Dec. 15, 1986, see section 8011(c) of Pub. L. 99-509, set out as a note under section 5061 of this title.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(a)(26) 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 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 1964 AMENDMENT

Pub. L. 88-342, §2, June 30, 1964, 78 Stat. 234, provided that the amendment made by section 2 of Pub. L. 88-342 shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after June 30, 1964.

#### 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.

#### REPORT

Pub. L. 106-476, title I, §4002(e), Nov. 9, 2000, 114 Stat. 2177, provided that: “The Secretary of the Treasury shall report to Congress on the impact of requiring export warehouses to be authorized by the original manufacturer to receive related export-labeled cigarettes.”

### § 5705. Credit, refund, or allowance of tax

#### (a) Credit or refund

Credit or refund of any tax imposed by this chapter or section 7652 shall be allowed or made (without interest) to the manufacturer, importer, or export warehouse proprietor, on proof satisfactory to the Secretary that the claimant manufacturer, importer, or export warehouse proprietor has paid the tax on tobacco products