

## PART II—OPERATIONS

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## PRIOR PROVISIONS

A prior part II consisted of sections 5361 to 5373 of this title, prior to the general revision of this chapter by Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1313.

## AMENDMENTS

1997—Pub. L. 105-34, title XIV, §1422(b), Aug. 5, 1997, 111 Stat. 1050, added item 5364.

1979—Pub. L. 96-39, title VIII, §807(b)(7), July 26, 1979, 93 Stat. 290, struck out item 5364 “Standard wine premises”.

1976—Pub. L. 94-455, title XIX, §1905(b)(5), Oct. 4, 1976, 90 Stat. 1822, substituted “and marking” for “, marking, and stamping” in item 5368.

**§ 5361. Bonded wine cellar operations**

In addition to the operations described in section 5351, the proprietor of a bonded wine cellar may, subject to regulations prescribed by the Secretary, on such premises receive taxpaid wine for return to bond, reconditioning, or destruction; prepare for market and store commercial fruit products and by-products not taxable as wines; produce or receive distilling material or vinegar stock; produce (with or without added wine spirits, and without added sugar) or receive on wine premises, subject to tax as wine but not for sale or consumption as beverage wine, (1) heavy bodied blending wines and Spanish-type blending sherries, and (2) other wine products made from natural wine for nonbeverage purposes; and such other operations as may be conducted in a manner that will not jeopardize the revenue or conflict with wine operations.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1380; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-39, title VIII, §807(a)(43), July 26, 1979, 93 Stat. 287; Pub. L. 105-34, title XIV, §1416(b)(1), Aug. 5, 1997, 111 Stat. 1048.)

## PRIOR PROVISIONS

A prior section 5361, act Aug. 16, 1954, ch. 736, 68A Stat. 664, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

## AMENDMENTS

1997—Pub. L. 105-34 struck out “unmerchantable” after “premises receive”.

1979—Pub. L. 96-39 substituted “or receive on wine premises” for “or receive on standard wine premises only”.

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

## EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 effective on the 1st day of the 1st calendar quarter that begins at least 180 days

after Aug. 5, 1997, see section 1416(c) of Pub. L. 105-34, set out as a note under section 5044 of this title.

## EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

## EFFECTIVE DATE

Section effective July 1, 1959, see section 210(a)(1) of Pub. L. 85-859, set out as a note under section 5001 of this title.

**§ 5362. Removals of wine from bonded wine cellars****(a) Withdrawals on determination of tax**

Wine may be withdrawn from bonded wine cellars on payment or determination of the tax thereon, under such regulations as the Secretary shall prescribe.

**(b) Transfers of wine between bonded premises****(1) In general**

Wine on which the tax has not been paid or determined may, under such regulations as the Secretary shall prescribe, be transferred in bond between bonded premises.

**(2) Wine transferred to a distilled spirits plant may not be removed for consumption or sale as wine**

Any wine transferred to the bonded premises of a distilled spirits plant—

(A) may be used in the manufacture of a distilled spirits product, and

(B) may not be removed from such bonded premises for consumption or sale as wine.

**(3) Continued liability for tax**

The liability for tax on wine transferred to the bonded premises of a distilled spirits plant pursuant to paragraph (1) shall (except as otherwise provided by law) continue until the wine is used in a distilled spirits product.

**(4) Transfer in bond not treated as removal for consumption or sale**

For purposes of this chapter, the removal of wine for transfer in bond between bonded premises shall not be treated as a removal for consumption or sale.

**(5) Bonded premises**

For purposes of this subsection, the term “bonded premises” means a bonded wine cellar or the bonded premises of a distilled spirits plant.

**(c) Withdrawals of wine free of tax or without payment of tax**

Wine on which the tax has not been paid or determined may, under such regulations and bonds as the Secretary may deem necessary to protect the revenue, be withdrawn from bonded wine cellars—

(1) without payment of tax for export by the proprietor or by any authorized exporter;

(2) without payment of tax for transfer to any foreign-trade zone;

(3) without payment of tax for use of certain vessels and aircraft as authorized by law;

(4) without payment of tax for transfer to any customs bonded warehouse;

(5) without payment of tax for use in the production of vinegar;

(6) without payment of tax for use in distillation in any distilled spirits plant authorized to produce distilled spirits;

(7) free of tax for experimental or research purposes by any scientific university, college of learning, or institution of scientific research;

(8) free of tax for use by or for the account of the proprietor or his agents for analysis or testing, organoleptic or otherwise; and

(9) free of tax for use by the United States or any agency thereof, and for use for analysis, testing, research, or experimentation by the governments of the several States and the District of Columbia or of any political subdivision thereof or by any agency of such governments. No bond shall be required of any such government or agency under this paragraph.

**(d) Withdrawal free of tax of wine and wine products unfit for beverage use**

Under such regulations as the Secretary may deem necessary to protect the revenue, wine, or wine products made from wine, when rendered unfit for beverage use, on which the tax has not been paid or determined, may be withdrawn from bonded wine cellars free of tax. The wine or wine products to be so withdrawn may be treated with methods or materials which render such wine or wine products suitable for their intended use. No wine or wine products so withdrawn shall contain more than 21 percent of alcohol by volume, or be used in the compounding of distilled spirits or wine for beverage use or in the manufacture of any product intended to be used in such compounding.

**(e) Withdrawal from customs bonded warehouses for use of foreign embassies, legations, etc.**

**(1) In general**

Notwithstanding any other provision of law, wine entered into customs bonded warehouses under subsection (c)(4) may, under such regulations as the Secretary may prescribe, be withdrawn from such warehouses for consumption in the United States by and for the official or family use of such foreign governments, organizations, and individuals who are entitled to withdraw imported wines from such warehouses free of tax. Wines transferred to customs bonded warehouses under subsection (c)(4) shall be entered, stored, and accounted for in such warehouses under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported wines.

**(2) Withdrawal for domestic use**

Wine entered into customs bonded warehouses under subsection (c)(4) for purposes of removal under paragraph (1) may be withdrawn therefrom for domestic use. Wines so withdrawn shall be treated as American goods exported and returned.

**(3) Sale or unauthorized use prohibited**

Wine withdrawn from customs bonded warehouses or otherwise brought into the United

States free of tax for the official or family use of foreign governments, organizations, or individuals authorized to obtain wine free of tax shall not be sold and shall not be disposed of or possessed for any use other than an authorized use. The provisions of paragraphs (1)(B) and (3) of section 5043(a) are hereby extended and made applicable to any person selling, disposing of, or possessing any wine in violation of the preceding sentence, and to the wine involved in any such violation.

(Added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1380; amended Pub. L. 90-73, §1(a), Aug. 29, 1967, 81 Stat. 175; Pub. L. 94-455, title XIX, §§1905(c)(4), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1823, 1834; Pub. L. 96-39, title VIII, §807(a)(44), July 26, 1979, 93 Stat. 287; Pub. L. 96-601, §2(a), (b), Dec. 24, 1980, 94 Stat. 3495.)

PRIOR PROVISIONS

A prior section 5362, act Aug. 16, 1954, ch. 736, 68A Stat. 665, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859.

AMENDMENTS

1980—Subsec. (c)(4). Pub. L. 96-601, §2(a), substituted “customs bonded” for “class 6 customs manufacturing”.

Subsec. (e). Pub. L. 96-601, §2(b), added subsec. (e).

1979—Subsec. (b). Pub. L. 96-39 substituted references to bonded premises for references to bonded wine cellars and inserted provisions relating to wine transferred in bond to a distilled spirits plant which may not be removed for consumption or sale as wine, provisions relating to continued liability for tax on wine transferred to bonded premises, and provisions defining “bonded premises”.

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

Subsec. (c)(9). Pub. L. 94-455, §1905(c)(4), struck out “and Territories” after “the several States”.

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

1967—Subsec. (d). Pub. L. 90-73 added subsec. (d).

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-601, §2(c), Dec. 24, 1980, 94 Stat. 3496, provided that: “The amendments made by this section [amending this section] shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act [Dec. 24, 1980].”

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as a note under section 5001 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1905(c)(4) 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 1967 AMENDMENT

Pub. L. 90-73, §1(b), Aug. 29, 1967, 81 Stat. 175, provided that: “The amendment made by subsection (a) [amending this section] shall become effective on the first day of the first month which begins 90 days or more after the date of the enactment of this Act [Aug. 29, 1967].”

**§ 5363. Taxpaid wine bottling house operations**

In addition to the operations described in section 5352, the proprietor of a taxpaid wine bot-