

which begins more than 90 days after the date of the enactment of this Act [Oct. 22, 1968].

“(b) The amendments made by the first section of this Act [amending this section] shall apply only to losses sustained on or after such effective date. The amendments made by section 2 [amending section 5062 of this title and section 1313 of Title 19, Customs Duties] shall apply only to articles exported on or after such effective date. The amendments made by section 3 [amending section 5232 of this title] shall apply only to withdrawals from customs custody on or after such effective date.”

#### EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89-44, title VIII, §805(g)(1), June 21, 1965, 79 Stat. 162, provided that: “The amendments made by subsections (a), (c), (e), and (f)(6) [amending this section and sections 5062, 5215, and 5608 of this title] shall take effect on July 1, 1965.”

#### DISTILLED SPIRITS RETURNED TO BONDED PREMISES OF DISTILLED SPIRITS PLANT DURING 1980

Subsec. (c)(1) of this section to be treated as including a reference to section 5041 of this title with respect to distilled spirits returned to the bonded premises of distilled spirits plants during 1980, see section 808(d) of Pub. L. 96-39, set out as a note under section 5061 of this title.

#### [§ 5009. Repealed. Pub. L. 96-39, title VIII, § 807(a)(7), July 26, 1979, 93 Stat. 281]

Section, added Pub. L. 85-859, title II, §201, Sept. 2, 1958, 72 Stat. 1327; amended Pub. L. 94-455, title XIX, §§1905(a)(3), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1818, 1834, related to drawback on exportation of distilled spirits in casks or packages.

A prior section 5009, act Aug. 16, 1954, ch. 736, 68A Stat. 603, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 85-859. See sections 5205(c)(1), (f), (i)(4) and 5206(c) of this title.

#### EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1980, see section 810 of Pub. L. 96-39, set out as an Effective Date of 1979 Amendment note under section 5001 of this title.

#### § 5010. Credit for wine content and for flavors content

##### (a) Allowance of credit

###### (1) Wine content

On each proof gallon of the wine content of distilled spirits, there shall be allowed a credit against the tax imposed by section 5001 (or 7652) equal to the excess of—

(A) \$13.50, over

(B) the rate of tax which would be imposed on the wine under section 5041(b) but for its removal to bonded premises.

###### (2) Flavors content

On each proof gallon of the flavors content of distilled spirits, there shall be allowed a credit against the tax imposed by section 5001 (or 7652) equal to \$13.50.

###### (3) Fractional part of proof gallon

In the case of any fractional part of a proof gallon of the wine content, or of the flavors content, of distilled spirits, a proportionate credit shall be allowed.

##### (b) Time for determining and allowing credit

###### (1) In general

The credit allowable by subsection (a)—

(A) shall be determined at the same time the tax is determined under section 5006 (or 7652) on the distilled spirits containing the wine or flavors, and

(B) shall be allowable at the time the tax imposed by section 5001 (or 7652) on such distilled spirits is payable as if the credit allowable by this section constituted a reduction in the rate of tax.

##### (2) Determination of content in the case of imports

For purposes of this section, the wine content, and the flavors content, of imported distilled spirits shall be established by such chemical analysis, certification, or other methods as may be set forth in regulations prescribed by the Secretary.

##### (c) Definitions

For purposes of this section—

###### (1) Wine content

###### (A) In general

The term “wine content” means alcohol derived from wine.

###### (B) Wine

The term “wine”—

(i) means wine on which tax would be imposed by paragraph (1), (2), or (3) of section 5041(b) but for its removal to bonded premises, and

(ii) does not include any substance which has been subject to distillation at a distilled spirits plant after receipt in bond.

###### (2) Flavors content

###### (A) In general

Except as provided in subparagraph (B), the term “flavors content” means alcohol derived from flavors of a type for which drawback is allowable under section 5114.

###### (B) Exceptions

The term “flavors content” does not include—

(i) alcohol derived from flavors made at a distilled spirits plant,

(ii) alcohol derived from flavors distilled at a distilled spirits plant, and

(iii) in the case of any distilled spirits product, alcohol derived from flavors to the extent such alcohol exceeds (on a proof gallon basis) 2½ percent of the finished product.

(Added Pub. L. 96-598, §6(a), Dec. 24, 1980, 94 Stat. 3488; amended Pub. L. 98-369, div. A, title I, §27(a)(2), July 18, 1984, 98 Stat. 507; Pub. L. 100-647, title V, §5063(a), Nov. 10, 1988, 102 Stat. 3681; Pub. L. 101-508, title XI, §11201(a)(2), Nov. 5, 1990, 104 Stat. 1388-415; Pub. L. 109-59, title XI, §11125(b)(14), Aug. 10, 2005, 119 Stat. 1956.)

#### PRIOR PROVISIONS

A prior section 5010, act Aug. 16, 1954, ch. 736, 68A Stat. 603, related to miscellaneous stamp provisions, prior to the general revision of this chapter by Pub. L. 85-859.

#### AMENDMENTS

2005—Subsec. (c)(2)(A). Pub. L. 109-59 substituted “section 5114” for “section 5134”.