

(A) An agreement under—

- (i) the Medicare coverage gap discount program under section 1860D-14A of the Social Security Act, or
- (ii) the manufacturer discount program under section 1860D-14C of such Act.

(B) A rebate agreement described in section 1927(b) of such Act.

(d) Applicable percentage

For purposes of this section, the term “applicable percentage” means—

- (1) in the case of sales of a designated drug during the first 90 days described in subsection (b) with respect to such drug, 65 percent,
- (2) in the case of sales of such drug during the 91st day through the 180th day described in subsection (b) with respect to such drug, 75 percent,
- (3) in the case of sales of such drug during the 181st day through the 270th day described in subsection (b) with respect to such drug, 85 percent, and
- (4) in the case of sales of such drug during any subsequent day, 95 percent.

(e) Definitions

For purposes of this section—

(1) Designated drug

The term “designated drug” means any negotiation-eligible drug (as defined in section 1192(d) of the Social Security Act) included on the list published under section 1192(a) of such Act which is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing.

(2) United States

The term “United States” has the meaning given such term by section 4612(a)(4).

(3) Other terms

The terms “initial price applicability year”, “price applicability period”, and “maximum fair price” have the meaning given such terms in section 1191 of the Social Security Act.

(f) Special rules**(1) Coordination with rules for possessions of the United States**

Rules similar to the rules of paragraphs (2) and (4) of section 4132(c) shall apply for purposes of this section.

(2) Anti-abuse rule

In the case of a sale which was timed for the purpose of avoiding the tax imposed by this section, the Secretary may treat such sale as occurring during a day described in subsection (b).

(g) Exports

Rules similar to the rules of section 4662(e) (other than section 4662(e)(2)(A)(ii)(II)) shall apply for purposes of this chapter.

(h) Regulations

The Secretary shall prescribe such regulations and other guidance as may be necessary to carry out this section.

(Added Pub. L. 117-169, title I, §11003(a), Aug. 16, 2022, 136 Stat. 1862.)

Editorial Notes

REFERENCES IN TEXT

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Sections 1191 to 1194 of the Act are classified to sections 1320f to 1320f-3, respectively, of Title 42, The Public Health and Welfare. Sections 1860D-14A and 1860D-14C of the Act are classified to sections 1395w-114a and 1395w-114c, respectively, of Title 42. Section 1927 of the Act is classified to section 1396r-8 of Title 42.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 117-169, title I, §11003(d), Aug. 16, 2022, 136 Stat. 1864, provided that: “The amendments made by this section [enacting this chapter and amending section 275 of this title] shall apply to sales after the date of the enactment of this Act [Aug. 16, 2022].”

Subtitle E—Alcohol, Tobacco, and Certain Other Excise Taxes

Chapter	Sec. ¹
51. Distilled spirits, wines, and beer	5001
52. Tobacco products and cigarette papers and tubes	5701
53. Machine guns and certain other firearms ²	5801
54. Greenmail	5881
55. Structured settlement factoring transactions	5891

Editorial Notes

AMENDMENTS

2002—Pub. L. 107-134, title I, §115(b), Jan. 23, 2002, 115 Stat. 2438, added item relating to chapter 55.

1997—Pub. L. 105-33, title IX, §9302(g)(3)(D), Aug. 5, 1997, 111 Stat. 673, added item relating to chapter 52 and struck out former item relating to chapter 52 “Cigars, cigarettes, smokeless tobacco, pipe tobacco, and cigarette papers and tubes”.

1988—Pub. L. 100-647, title V, §5061(c)(4), Nov. 10, 1988, 102 Stat. 3680, substituted “Cigars, cigarettes, smokeless tobacco, pipe tobacco, and cigarette papers and tubes” for “Tobacco, cigars, cigarettes, smokeless tobacco, and cigarette papers and tubes” in item relating to chapter 52.

Pub. L. 100-647, title I, §1018(u)(16), Nov. 10, 1988, 102 Stat. 3590, inserted “smokeless tobacco,” after “cigarettes,” in item relating to chapter 52.

1987—Pub. L. 100-203, title X, §10228(c), Dec. 22, 1987, 101 Stat. 1330-418, added item relating to chapter 54.

CHAPTER 51—DISTILLED SPIRITS, WINES, AND BEER

Subchapter	Sec. ¹
A. Gallonage and occupational taxes	5001
B. Qualification requirements for distilled spirits plants	5171
C. Operation of distilled spirits plants	5201
D. Industrial use of distilled spirits	5271
E. General provisions relating to distilled spirits	5291
F. Bonded and taxpaid wine premises	5351
G. Breweries	5401
H. Miscellaneous plants and warehouses ...	5501
I. Miscellaneous general provisions	5551
J. Penalties, seizures, and forfeitures relating to liquors	5601

¹Section numbers editorially supplied.

²Chapter heading amended by Pub. L. 90-618 without corresponding amendment of analysis.

³Section numbers editorially supplied.