

§ 4975. Tax on prohibited transactions

[See main edition for text of (a) to (c)]

(d) Exemptions

The prohibitions provided in subsection (c) shall not apply to—

[See main edition for text of (1) and (2)]

(3) any loan to an¹ leveraged employee stock ownership plan (as defined in subsection (e)(7)), if—

[See main edition for text of (A) and (B), (4) to (13), and concluding par.]

(e) Definitions

[See main edition for text of (1) to (6)]

(7) Leveraged employee stock ownership plan

The term “leveraged employee stock ownership plan” means a defined contribution plan—

[See main edition for text of (A) and (B)]

A plan shall not be treated as as¹ leveraged employee stock ownership plan unless it meets the requirements of subsections (e) and (h) of section 409A.

[See main edition for text of (8); (f) to (i)]

(As amended Pub. L. 95-600, title I, § 141(f)(5), (6), Nov. 6, 1978, 92 Stat. 2795.)

AMENDMENTS

1978—Subsec. (d)(3). Pub. L. 95-600, § 141(f)(6), substituted “leveraged employee” for “employee”.

Subsec. (e)(7). Pub. L. 95-600, § 141(f)(5), substituted in heading “Leveraged employee” for “Employee”, and in text, “leveraged employee” for “employee” and added provision that a plan not be treated as a leveraged employee stock ownership plan unless it meet the requirements of section 409A(e) and (h).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 effective with respect to qualified investment for taxable years beginning after Dec. 31, 1978, see section 141(g)(1) of Pub. L. 95-600, set out as an Effective Date of 1978 Amendment note under section 409A of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 401, 408, 414, 503, 6213, 6501, 6503, 7422 of this title; title 15 section 1866; title 19 section 2373; title 29 sections 1056, 1132, 1203, 1342; title 45 section 726.

CHAPTER 44—REAL ESTATE INVESTMENT TRUSTS**CHAPTER REFERRED TO IN OTHER SECTIONS**

This chapter is referred to in sections 6103, 6161, 6211, 6212, 6213, 6214, 6405, 6501, 6512, 6601, 7422 of this title.

¹So in original. Probably should be “a”.

Subtitle E—Alcohol, Tobacco, and Certain Other Excise Taxes**CHAPTER 51—DISTILLED SPIRITS, WINES, AND BEER****Suhchapter A—Gallonage and Occupational Taxes****PART I—GALLONAGE TAXES**

Subpart
[B. Repealed.]

SUBPART A—DISTILLED SPIRITS

Sec.
[5009. Repealed.]

AMENDMENTS

1979—Pub. L. 96-39, title VIII, § 807(b)(1), (2), July 26, 1979, 93 Stat. 290, struck out the item relating to subpart B “Rectification” in the table of subparts comprising Part I and the item relating to section 5009 “Drawback” in the table of sections comprising Subpart A.

§ 5001. Imposition, rate, and attachment of tax**(a) Rate of tax—****(1) General**

There is hereby imposed on all distilled spirits produced in or imported into the United States a tax at the rate of \$10.50 on each proof gallon and a proportionate tax at the like rate on all fractional parts of a proof gallon.

(2) Products containing distilled spirits

All products of distillation, by whatever name known, which contain distilled spirits, on which the tax imposed by law has not been paid, and any alcoholic ingredient added to such products, shall be considered and taxed as distilled spirits.

[See main edition for text of (3) to (10); (b) and (c)]

(As amended Pub. L. 96-39, title VIII, §§ 802, 805(d), July 26, 1979, 93 Stat. 273, 278.)

AMENDMENTS

1979—Subsec. (a)(1). Pub. L. 96-39, § 802, struck out “in bond or” following “distilled spirits” and “or wine gallon when below proof” following “each proof gallon” and substituted “a tax” for “an internal revenue tax” and “proof gallon” for “such proof or wine gallon”.

Subsec. (a)(2). Pub. L. 96-39, § 805(d), added “, and any alcoholic ingredient added to such products” following “has not been paid”.

EFFECTIVE DATE OF 1979 AMENDMENT

Section 810 of Pub. L. 96-39 provided that: “The amendments made by this title [amending sections 5001 to 5008, 5043, 5061, 5064, 5066, 5116, 5171 to 5173, 5175 to 5178, 5180, 5181, 5201 to 5205, 5207, 5211 to 5215, 5221 to 5223, 5231, 5232, 5235, 5241, 5273, 5291, 5301, 5352, 5361 to 5363, 5365, 5381, 5391, 5551, 5601, 5604, 5610, 5612, 5615, 5663, 5681, 5682, and 5691 of this title, repealing sections 5009, 5021 to 5026, 5081 to 5084, 5174, 5233, 5234, 5251, 5252, 5364, and 5521 to 5523 of this title, and enacting provisions set out as notes under sections 1, 5061, 5171, and 5173 of this title] shall take effect on January 1, 1980.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5004, 5005, 5007, 5008, 5061, 5066, 5215, 5314, 5391, 5512 of this title.

§ 5002. Definitions

(a) In general

For purposes of this chapter—

(1) Distilled spirits plant

The term “distilled spirits plant” means an establishment which is qualified under subchapter B to perform any distilled spirits operation.

(2) Distilled spirits operation

The term “distilled spirits operation” means any operation for which qualification is required under subchapter B.

(3) Bonded premises

The term “bonded premises”, when used with respect to distilled spirits, means the premises of a distilled spirits plant, or part thereof, on which distilled spirits operations are authorized to be conducted.

(4) Distiller

The term “distiller” includes any person who—

(A) produces distilled spirits from any source or substance,

(B) brews or makes mash, wort, or wash fit for distillation or for the production of distilled spirits (other than the making or using of mash, wort, or wash in the authorized production of wine or beer, or the production of vinegar by fermentation),

(C) by any process separates alcoholic spirits from any fermented substance, or

(D) making or keeping mash, wort, or wash, has a still in his possession or use.

(5) Processor

(A) In general

The term “processor”, when used with respect to distilled spirits, means any person who—

- (i) manufactures, mixes, or otherwise processes distilled spirits, or
- (ii) manufactures any article.

(B) Rectifier, bottler, etc., included

The term “processor” includes (but is not limited to) a rectifier, bottler, and denaturer.

(6) Certain operations not treated as processing

In applying paragraph (5), there shall not be taken into account—

(A) Operations as distiller

Any process which is the operation of a distiller.

(B) Mixing of taxpaid spirits for immediate consumption

Any mixing (after determination of tax) of distilled spirits for immediate consumption.

(C) Use by apothecaries

Any process performed by an apothecary with respect to distilled spirits which such apothecary uses exclusively in the preparation or making up of medicines unfit for use for beverage purposes.

(7) Warehouseman

The term “warehouseman”, when used with respect to distilled spirits, means any person who stores bulk distilled spirits.

(8) Distilled spirits

The terms “distilled spirits”, “alcoholic spirits”, and “spirits” mean that substance known as ethyl alcohol, ethanol, or spirits of wine in any form (including all dilutions and mixtures thereof from whatever source or by whatever process produced).

(9) Bulk distilled spirits

The term “bulk distilled spirits” means distilled spirits in a container having a capacity in excess of 1 wine gallon.

(10) Proof spirits

The term “proof spirits” means that liquid which contains one-half its volume of ethyl alcohol of a specific gravity of 0.7939 at 60 degrees Fahrenheit (referring to water at 60 degrees Fahrenheit as unity).

(11) Proof gallon

The term “proof gallon” means a United States gallon of proof spirits, or the alcoholic equivalent thereof.

(12) Container

The term “container”, when used with respect to distilled spirits, means any receptacle, vessel, or form of package, bottle, tank, or pipeline used, or capable of use, for holding, storing, transferring, or conveying distilled spirits.

(13) Approved container

The term “approved container”, when used with respect to distilled spirits, means a container the use of which is authorized by regulations prescribed by the Secretary.

(14) Article

Unless another meaning is distinctly expressed or manifestly intended, the term “article” means any substance in the manufacture of which denatured distilled spirits are used.

(15) Export

The terms “export”, “exported”, and “exportation” include shipments to a possession of the United States.

(h) Cross references

- (1) For definition of wine gallon, see section 5041(c).
- (2) For definition of manufacturer of stills, see section 5102.
- (3) For definition of dealer, see section 5112(a).
- (4) For definitions of wholesale dealers, see section 5112.
- (5) For definitions of retail dealers, see section 5122.
- (6) For definitions of general application to this title, see chapter 79.

(As amended Pub. L. 96-39, title VIII, § 805(e), July 26, 1979, 93 Stat. 278.)

AMENDMENTS

1979—Subsec. (a)(1). Pub. L. 96-39 substituted “distilled spirits operation” for “operation, or any combination of operations, for which qualification is required under such subchapter”.

Subsec. (a)(2). Pub. L. 96-39 added par. (2). Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 96-39 redesignated former par. (2) as (3). Former par. (3), defining the term "bonding premises", was struck out.

Subsec. (a)(4). Pub. L. 96-39 redesignated former par. (5) as (4). Former par. (4), defining the term "bonded warehouseman", was struck out.

Subsec. (a)(5) to (7). Pub. L. 96-39 added pars. (5) to (7). Former pars. (5) to (7) redesignated (4), (8), and (10), respectively.

Subsec. (a)(8). Pub. L. 96-39 redesignated former par. (6) as (8). Former par. (8) redesignated (11).

Subsec. (a)(9). Pub. L. 96-39 added par. (9). Former par. (9) redesignated (12).

Subsec. (a)(10) to (15). Pub. L. 96-39 redesignated former pars. (7) to (12) as (10) to (15), respectively.

Subsec. (b). Pub. L. 95-39 struck out former par. (2), which provided for a cross reference to section 5082 for a definition of rectifier, and redesignated pars. (3) to (7) as (2) to (6), respectively.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5214, 5301 of this title.

§ 5003. Cross references to exemptions, etc.

[See main edition for text of (1) to (8)]

(9) For provisions authorizing withdrawal of distilled spirits without payment of tax to customs bonded warehouses for export, see section 5214(a)(9).

[See main edition for text of (10) to (13)]

(14) For provisions authorizing the withdrawal of distilled spirits without payment of tax for use in certain research, development, or testing, see section 5214(a)(10).

(15) For provisions authorizing the withdrawal of distilled spirits without payment of tax for transfer to manufacturing bonded warehouses for manufacturing for export, see section 5214(a)(6).

(16) For provisions authorizing the withdrawal of articles from the bonded premises of a distilled spirits plant free of tax when contained in an article, see section 5214(a)(11).

(17) For provisions relating to allowance for certain losses in bond, see section 5008(a).

(As amended Pub. L. 95-176, § 3(c), 4(f), Nov. 14, 1977, 91 Stat. 1365, 1366; Pub. L. 96-39, title VIII, § 807(a)(1), July 26, 1979, 93 Stat. 280.)

AMENDMENTS

1979—Par. (9). Pub. L. 96-39, § 807(a)(1)(A), struck out "section 5522(a) and" preceding "section 5214(a)(9)".

Par. (15). Pub. L. 96-39, § 807(a)(1)(B), added par. (15). Former par. (15) redesignated (17).

Par. (16). Pub. L. 96-39, § 807(a)(1)(B), added par. (16).

Par. (17). Pub. L. 96-39, § 807(a)(1)(B), redesignated former par. (15) as (17).

1977—Par. (9). Pub. L. 95-176, § 3(c), struck out "manufacturing" after "customs" and inserted reference to section 5214(a)(9).

Par. (14). Pub. L. 95-176, § 4(f), substituted "withdrawal of distilled spirits without payment of tax for use in certain research, development, or testing, see section 5214(a)(10)" for "removal of samples free of tax for making tests or laboratory analyses, see section 5214(a)(9)".

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 an Effective

Date of 1979 Amendment note under section 5001 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 7 of Pub. L. 95-176 provided that: "The amendments made by this Act [enacting sections 5008(f)(5), 5178(a)(3)(D), 5207(a)(10), and 5214(a)(10), (b)(7) of this title, amending sections 5003(9), (14), 5004(a)(2)(B), (C), 5005(d), (e), 5008(d), 5025(b), (e)(7), 5062(b), 5066(a)(1), 5175(a), 5205(c)(2), 5214(a)(9), 5215, and 5234(a)(2) of this title, and redesignating as section 5207(a)(11) former section 5207(a)(10) of this title] 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 [Nov. 14, 1977]."

§ 5004. Lien for tax

(a) Distilled spirits subject to lien

[See main edition for text of (1)]

(2) Exceptions

The lien imposed by paragraph (1), or any similar lien imposed on the spirits under prior provisions of internal revenue law, shall terminate in the case of distilled spirits produced on premises qualified under internal revenue law for the production of distilled spirits when such distilled spirits are—

(A) withdrawn from bonded premises on determination of tax; or

(B) withdrawn from bonded premises free of tax under provisions of section 5214(a)(1), (2), (3), or (11), or section 7510; or

(C) exported, deposited in a foreign-trade zone, used in the production of wine, laden as supplies upon, or used in the maintenance or repair of, certain vessels or aircraft, deposited in a customs bonded warehouse, or used in certain research, development, or testing, as provided by law.

(b) Cross reference

For provisions relating to extinguishing of lien in case of redistillation, see section 5223(e).

[(c) Redesignated (b)]

(As amended Pub. L. 95-176, § 4(c), Nov. 14, 1977, 91 Stat. 1366; Pub. L. 96-39, title VIII, § 807(a)(2), July 26, 1979, 93 Stat. 280.)

AMENDMENTS

1979—Subsec. (a)(2)(B). Pub. L. 96-39, § 807(a)(2)(C), substituted "(3), or (11)" for "or (3)".

Subsec. (b). Pub. L. 96-39, § 807(a)(2)(A), (B), redesignated subsec. (c) as (b). Former subsec. (b), relating to other property subject to lien, was repealed.

Subsec. (c). Pub. L. 96-39, § 807(a)(2)(B), redesignated former subsec. (c) as (b).

1977—Subsec. (a)(2). Pub. L. 95-176 struck out in subpar. (B) reference to par. (9) of section 5214(a), and in subpar. (C) substituted "a customs bonded warehouse" for "customs manufacturing bonded warehouses" and provided for termination of the lien for tax when the distilled spirits are used in certain research, development, or testing.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of subsec. (a)(2)(B), (C) by Pub. L. 95-176 effective on the first day of the first calendar

month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as an Effective Date of 1977 Amendment note under section 5003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6326 of this title.

§ 5005. Persons liable for tax

[See main edition for text of (a) and (b)]

(c) Proprietors of distilled spirits plants

[See main edition for text of (1) and (2)]

[(3) Repealed. Pub. L. 96-39, title VIII, § 807(a)(3)(A), July 26, 1979, 93 Stat. 280]

(d) Withdrawals free of tax

All persons liable for the tax under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall be relieved of such liability as to distilled spirits withdrawn free of tax under the provisions of section 5214(a)(1), (2), (3), or (11), or under section 7510, at the time such spirits are so withdrawn from bonded premises.

(e) Withdrawals without payment of tax

(1) Liability for tax

Any person who withdraws distilled spirits from the bonded premises of a distilled spirits plant without payment of tax, as provided in section 5214(a)(4), (5), (6), (7), (8), (9), or (10), shall be liable for the internal revenue tax on such distilled spirits, from the time of such withdrawal; and all persons liable for the tax on such distilled spirits under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall, at the time of such withdrawal, be relieved of any such liability on the distilled spirits so withdrawn if the person withdrawing such spirits and the person, or persons, liable for the tax under subsection (a) or (b), or under any similar prior provisions of internal revenue law, are independent of each other and neither has a proprietary interest, directly or indirectly, in the business of the other, and all persons liable for the tax under subsection (a) or (b), or under any similar prior provisions of internal revenue law, have divested themselves of all interest in the spirits so withdrawn.

(2) Relief from liability

All persons liable for the tax on distilled spirits under paragraph (1) of this subsection, or under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall be relieved of any such liability at the time, as the case may be, the distilled spirits are exported, deposited in a foreign-trade zone, used in the production of wine, deposited in customs bonded warehouses, laden as supplies upon, or used in the maintenance or repair of, certain vessels or aircraft, or used in certain research, development, or testing, as provided by law.

(f) Cross references

(1) For provisions requiring bond covering operations at, and withdrawals from, distilled spirits plants, see section 5173.

[See main edition for text of (2) to (5)]

(6) For provisions relating to transfer of tax liability for wine, see section 5043(a)(1)(A).

(As amended Pub. L. 95-176, § 4(b), (d), Nov. 14, 1977, 91 Stat. 1366; Pub. L. 96-39, title VIII, § 807(a)(3), July 26, 1979, 93 Stat. 280.)

AMENDMENTS

1979—Subsec. (c)(3). Pub. L. 96-39, § 807(a)(3)(A), struck out par. (3), which related to liability for taxes with regard to withdrawals of distilled spirits from the bonded premises of a distilled spirits plant.

Subsec. (d). Pub. L. 96-39, § 807(a)(3)(B), substituted “(3), or (11)” for “or (3)”.

Subsec. (f)(1). Pub. L. 96-39, § 807(a)(3)(C), substituted “requiring bond covering operations at, and withdrawals from, distilled spirits plants” for “conditioning warehousing bonds on the payment of the tax” and “5173” for “5173(c)”.

Subsec. (f)(6). Pub. L. 96-39, § 807(a)(3)(D), added par. (6).

1977—Subsec. (d). Pub. L. 95-176, § 4(d)(1), struck out reference to par. (9) of section 5214(a).

Subsec. (e)(1). Pub. L. 95-176, § 4(d)(2), inserted reference to pars. (9) and (10) of section 5214(a).

Subsec. (e)(2). Pub. L. 95-176, § 4(b), substituted “customs bonded warehouses” for “customs manufacturing bonded warehouses” and provided for relief from liability for tax on distilled spirits used in certain research, development, or testing.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of subsecs. (d) and (e) by Pub. L. 95-176 effective on the first day of the first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as an Effective Date of 1977 Amendment note under section 5003 of this title.

§ 5006. Determination of tax

(a) Requirements

(1) In general

Except as otherwise provided in this section, the tax on distilled spirits shall be determined when the spirits are withdrawn from bond. Such tax shall be determined by such means as the Secretary shall by regulations prescribe, and with the use of such devices and apparatus (including but not limited to tanks and pipelines) as the Secretary may require. The tax on distilled spirits withdrawn from the bonded premises of a distilled spirits plant shall be determined upon completion of the gauge for determination of tax and before withdrawal from bonded premises, under such regulations as the Secretary shall prescribe.

(2) Distilled spirits not accounted for

If the Secretary finds that the distiller has not accounted for all the distilled spirits produced by him, he shall, from all the evidence he can obtain, determine what quantity of distilled spirits was actually produced by such distiller, and an assessment shall be made for the difference between the quantity reported and the quantity shown to have been actually

produced at the rate of tax imposed by law for every proof gallon.

[(3) Redesignated (2)]

(b) Taxable loss

(1) On original quantity

Where there is evidence satisfactory to the Secretary that there has been any loss of distilled spirits from any cask or other package deposited on bonded premises, other than a loss which by reason of section 5008(a) is not taxable, the Secretary may require the withdrawal from bonded premises of such distilled spirits, and direct the officer designated by him to collect the tax accrued on the original quantity of distilled spirits entered for deposit on bonded premises in such cask or package; except that, under regulations prescribed by the Secretary, when the extent of any loss from causes other than theft or unauthorized voluntary destruction can be established by the proprietor to the satisfaction of the Secretary an allowance of the tax on the loss so established may be credited against the tax on the original quantity. If such tax is not paid on demand it shall be assessed and collected as other taxes are assessed and collected.

(2) Alternative method

Where there is evidence satisfactory to the Secretary that there has been access, other than is authorized by law, to the contents of casks or packages stored on bonded premises, and the extent of such access is such as to evidence a lack of due diligence or a failure to employ necessary and effective controls on the part of the proprietor, the Secretary (in lieu of requiring the casks or packages to which such access has been had to be withdrawn and tax paid on the original quantity of distilled spirits entered for deposit on bonded premises in such casks or packages as provided in paragraph (1)) may assess an amount equal to the tax on 5 proof gallons of distilled spirits at the prevailing rate on each of the total number of such casks or packages as determined by him.

(3) Application of subsection

The provisions of this subsection shall apply to distilled spirits which are filled into casks or packages, as authorized by law, after entry and deposit on bonded premises, whether by recasking, filling from storage tanks, consolidation of packages, or otherwise; and the quantity filled into such casks or packages shall be deemed to be the original quantity for the purpose of this subsection, in the case of loss from such casks or packages.

[See main edition for text of (c) to (e)]

(As amended Pub. L. 96-39, title VIII, §§ 804(a), 807(a)(4), July 26, 1979, 93 Stat. 274, 280.)

AMENDMENTS

1979—Subsec. (a)(1). Pub. L. 96-39, § 804(a), struck out "internal revenue" following "provided in this section, the" and "storage, gauging, and bottling" following "but not limited to".

Subsec. (a)(2). Pub. L. 96-39, § 804(a), redesignated former par. (3) as (2). Former par. (2), relating to distilled spirits entered for storage, was struck out.

Subsec. (a)(3). Pub. L. 96-39, § 804(a), redesignated former par. (3) as (2).

Subsec. (b)(1). Pub. L. 96-39, § 807(a)(4)(A), (B), substituted "on bonded premises" for "in storage in internal revenue bond" in two places and "; except" for "notwithstanding that the time specified in any bond given for the withdrawal of the spirits entered in storage in such cask or package has not expired, except".

Subsec. (b)(2), (3). Pub. L. 96-39, § 807(a)(4)(B), substituted "on bonded premises" for "in storage in internal revenue bond".

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5007, 5061, 5205, 6207 of this title.

§ 5007. Collection of tax on distilled spirits

(a) Tax on distilled spirits removed from bonded premises

The tax on domestic distilled spirits and on distilled spirits removed from customs custody under section 5232 shall be paid in accordance with section 5061.

[See main edition for text of (b) and (c)]

(As amended Pub. L. 96-39, title VIII, § 807(a)(5), July 26, 1979, 93 Stat. 280.)

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-39 struck out "(1) General" preceding "The tax on domestic" and par. (2), which related to distilled spirits withdrawn to bottling premises under withdrawal bond.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

§ 5008. Abatement, remission, refund, and allowance for loss or destruction of distilled spirits

(a) Distilled spirits lost or destroyed in bond

(1) Extent of loss allowance

No tax shall be collected in respect of distilled spirits lost or destroyed while in bond, except that such tax shall be collected—

(A) Theft

In the case of loss by theft, unless the Secretary finds that the theft occurred without connivance, collusion, fraud, or negligence on the part of the proprietor of the distilled spirits plant, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them;

(B) Voluntary destruction

In the case of voluntary destruction, unless such destruction is carried out as provided in subsection (b); and

(C) Unexplained shortage

In the case of an unexplained shortage of bottled distilled spirits.

[See main edition for text of (2) to (4)]

(5) Applicability

The provisions of this subsection shall extend to and apply in respect of distilled spirits lost after the tax was determined and before completion of the physical removal of the distilled spirits from the bonded premises.

(b) Voluntary destruction

The proprietor of the distilled spirits plant or other persons liable for the tax imposed by this chapter or by section 7652 with respect to any distilled spirits in bond may voluntarily destroy such spirits, but only if such destruction is under such supervision and under such regulations as the Secretary may prescribe.

(c) Distilled spirits returned to bonded premises**(1) In general**

Whenever any distilled spirits withdrawn from bonded premises on payment or determination of tax are returned to the bonded premises of a distilled spirits plant under section 5215(a), the Secretary shall abate or (without interest) credit or refund the tax imposed under section 5001(a)(1) (or the tax equal to such tax imposed under section 7652) on the spirits so returned.

(2) Claim must be filed within 6 months of return of spirits

No allowance under paragraph (1) may be made unless claim therefor is filed within 6 months of the date of the return of the spirits. Such claim may be filed only by the proprietor of the distilled spirits plant to which the spirits were returned, and shall be filed in such form as the Secretary may by regulations prescribe.

(d) Distilled spirits withdrawn without payment of tax

The provisions of subsection (a) shall be applicable to loss of distilled spirits occurring during transportation from bonded premises of a distilled spirits plant to—

- (1) the port of export, in case of withdrawal under section 5214(a)(4);
- (2) the customs manufacturing bonded warehouse, in case of withdrawal under section 5214(a)(6);
- (3) the vessel or aircraft, in case of withdrawal under section 5214(a)(7);
- (4) the foreign-trade zone, in case of withdrawal under section 5214(a)(8); and
- (5) the customs bonded warehouse in the case of withdrawal under sections 5066 and 5214(a)(9).

The provisions of subsection (a) shall be applicable to loss of distilled spirits withdrawn from bonded premises without payment of tax under section 5214(a)(10) for certain research, development, or testing, until such distilled spirits are used as provided by law.

(e) Other laws applicable

All provisions of law, including penalties, applicable in respect of the internal revenue tax on distilled spirits, shall, insofar as applicable and not inconsistent with subsection (c), be applicable to the credits or refunds provided for under such subsection to the same extent as if such credits or refunds constituted credits or refunds of such tax.

(f) Cross reference

For provisions relating to allowance for loss in case of wine spirits withdrawn for use in wine production, see section 5373(b)(3).

[(g), (h) Redesignated (e), (f)]

(As amended Pub. L. 95-176, §§ 2(f), 4(e), Nov. 14, 1977, 91 Stat. 1364, 1366; Pub. L. 96-39, title VIII, § 807(a)(6), July 26, 1979, 93 Stat. 281.)

AMENDMENTS

1979—Subsec. (a)(1). Pub. L. 96-39, § 807(a)(6)(A), in subpar. (B) substituted “subsection (b); and” for “subsection (b)(1).” and added subpar. (C).

Subsec. (a)(5). Pub. L. 96-39, § 807(a)(6)(B), substituted “before” for “prior to the completion” and struck out provisions relating to the applicability of this subsection where the loss occurred after the time prescribed for the withdrawal of the distilled spirits from the bonded premises under section 5006(a)(2) and relating to the applicability of this paragraph to any loss of distilled spirits for which abatement, remission, credit, or refund of tax is allowed under subsec. (c).

Subsec. (b). Pub. L. 96-39, § 807(a)(6)(C), struck out “(1) Distilled spirits in bond” preceding “The proprietor of” and provisions relating to distilled spirits withdrawn for rectification or bottling.

Subsec. (c). Pub. L. 96-39, § 807(a)(6)(C), added subsec. (c). Former subsec. (c), which related to loss of distilled spirits withdrawn from bond for rectification or bottling, was struck out.

Subsec. (d). Pub. L. 96-39, § 807(a)(6)(D), redesignated former subsec. (f) as (d). Former subsec. (d), which related to distilled spirits returned to bonded premises, was struck out.

Subsec. (e). Pub. L. 96-39, § 807(a)(6)(D), (E), redesignated former subsec. (g) as (e) and, as so redesignated, substituted “subsection (c)” for “subsections (b)(2), (c), and (d)” and “under such subsection” for “under such subsections”. Former subsec. (e), which related to samples of distilled spirits used for analysis or testing by the United States, was struck out.

Subsec. (f). Pub. L. 96-39, § 807(a)(6)(D), redesignated former subsec. (h) as (f). Former subsec. (f) redesignated (d).

Subsecs. (g), (h). Pub. L. 96-39, § 807(a)(6)(D), redesignated former subsecs. (g) and (h) as (e) and (f), respectively.

1977—Subsec. (d). Pub. L. 95-176, § 2(f), reenacted par. (1) and substituted therein the heading “General” for “Allowance of tax” and “(or the tax equal to such tax imposed under section 7652)” for “or under section 7652”; added pars. (2) and (3); and redesignated as par. (4) provisions of former par. (2), inserting therein reference to allowance of claims under par. (2) or (3).

Subsec. (f)(5). Pub. L. 95-176, § 4(e), added par. (5).

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Enactment of subsec. (f)(5) and amendment of subsec. (d) by Pub. L. 95-176 effective on the first day of the first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as an Effective Date of 1977 Amendment note under section 5003 of this title.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5003, 5005, 5006, 5215, 5373 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, and 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 the exportation of distilled spirits in casks or packages.

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.

[SUBPART B—REPEALED]

[§§ 5021 to 5026. Repealed. Pub. L. 96-39, title VIII, § 803(a), July 26, 1979, 93 Stat. 274]

Section 5021, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1328, provided for the imposition of a tax on rectified distilled spirits or wines.

A prior section 5021, act Aug. 16, 1954, ch. 736, 68A Stat. 606, which related to the imposition and rate of tax, was omitted from the Code upon the general revision of this chapter by Pub. L. 85-859.

Section 5022, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1328, and amended Pub. L. 86-75, § 3(a)(4), June 30, 1959, 73 Stat. 157; Pub. L. 86-564, title II, § 202(a)(6), June 30, 1960, 74 Stat. 290; Pub. L. 87-72, § 3(a)(6), June 30, 1961, 75 Stat. 193; Pub. L. 87-508, § 3(a)(5), June 28, 1962, 76 Stat. 114; Pub. L. 88-52, § 3(a)(6), June 29, 1963, 77 Stat. 72; Pub. L. 88-348, § 2(a)(6), June 30, 1964, 78 Stat. 237; Pub. L. 89-44, title V, § 501(b), June 21, 1965, 79 Stat. 150, imposed a tax on cordials and liqueurs containing wine.

A prior section 5022, acts Aug. 16, 1954, ch. 736, 68A Stat. 606; Mar. 30, 1955, ch. 18, § 3(a)(6), 69 Stat. 14; Mar. 29, 1956, ch. 115, § 3(a)(6), 70 Stat. 66; Mar. 29, 1957, Pub. L. 85-12, § 3(a)(4), 71 Stat. 9; June 30, 1958, Pub. L. 85-475, § 3(a)(4), 72 Stat. 259, which imposed a tax on cordials and liqueurs containing wine, was omitted from the Code upon the general revision of this chapter by Pub. L. 85-859.

Section 5023, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1328, imposed a tax on the blending of beverage rums and brandies.

A prior section 5023, act Aug. 16, 1954, ch. 736, 68A Stat. 606, which imposed a tax on blending of beverage brandies, was omitted from the Code upon the general revision of this chapter by Pub. L. 85-859.

Section 5024, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1328, indicated the sources for the definitions of the terms "rectifier", "products of rectification", and "distilled spirits" and referred to other definitions relating to distilled spirits as well as other definitions of general application to this title.

A prior section 5024, act Aug. 16, 1954, ch. 736, 68A Stat. 607, which defined "rectifier" and "products of rectification", was omitted from the Code upon the general revision of this chapter by Pub. L. 85-859.

Section 5025, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1328, and amended Pub. L. 89-44, title VIII, § 805(b), (f)(2)-(5), June 21, 1965, 79 Stat. 161; Pub. L. 94-455, title XIX, §§ 1905(a)(4), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1818, 1834; Pub. L. 95-176, § 5(b), 6, Nov. 14, 1977, 91 Stat. 1366, 1367, enumerated 12 exemptions from the rectification tax.

A prior section 5025, act Aug. 16, 1954, ch. 736, 68A Stat. 607, which related to exemption from rectification tax, was omitted from the Code upon the general revision of this chapter by Pub. L. 85-859.

Provisions similar to those comprising section 5025(e)(1), (2), (4) of this title were contained in

former sections 5023, 5217(a), and 5306 of this title, act Aug. 16, 1954, ch. 736, 68A Stat. 606, 641, 657, prior to the general revision of this chapter by Pub. L. 85-859.

Section 5026, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1330; Pub. L. 94-455, title XIX, §§ 1905(b)(2)(B), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1822, 1834, related to the determination and collection of the rectification tax.

A prior section 5026, act Aug. 16, 1954, ch. 736, 68A Stat. 608, which related to determination and collection of rectification tax, was omitted from the Code upon the general revision of this chapter by Pub. L. 85-859.

A prior section 5027, act Aug. 16, 1954, ch. 736, 68A Stat. 609, relating to stamp provisions applicable to rectifiers, was omitted from the Code upon the general revision of this chapter by Pub. L. 85-859.

A prior section 5028, act Aug. 16, 1954, ch. 736, 68A Stat. 609, relating to cross references for penalty provisions, was omitted from the Code upon the general revision of this chapter by Pub. L. 85-859.

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.

SUBPART C—WINES

§ 5042. Exemption from tax

(a) Tax-free production

[See main edition for text of (1)]

(2) Wine for personal or family use

Subject to regulations prescribed by the Secretary—

(A) Exemption

Any adult may, without payment of tax, produce wine for personal or family use and not for sale.

(B) Limitation

The aggregate amount of wine exempt from tax under this paragraph with respect to any household shall not exceed—

- (i) 200 gallons per calendar year if there are 2 or more adults in such household, or
- (ii) 100 gallons per calendar year if there is only 1 adult in such household.

(C) Adults

For purposes of this paragraph, the term "adult" means an individual who has attained 18 years of age, or the minimum age (if any) established by law applicable in the locality in which the household is situated at which wine may be sold to individuals, whichever is greater.

[See main edition for text of (3); (b)]

(As amended Pub. L. 95-458, § 2(a), Oct. 14, 1978, 92 Stat. 1255.)

AMENDMENTS

1978—Subsec. (a)(2). Pub. L. 95-458 substituted in heading "Wine for personal or family use" for "Family wine" and in text provision permitting an adult to produce 200 gallons of wine per calendar year if there are 2 or more adults in the household or 100 gallons of wine per calendar year if there is one adult in the household for provision which permitted the duly registered head of any family to produce an amount of wine not exceeding 200 gallons of wine per annum.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 2(c) of Pub. L. 95-458 provided that: "The amendments made by this section [amending sections 5042, 5051, 5053, 5054, 5092, 5222 and 5674 of this title] 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 [Oct. 14, 1978]."

§ 5043. Collection of taxes on wines**(a) Persons liable for payment**

The taxes on wine provided for in this subpart shall be paid—

(1) Bonded wine cellars

In the case of wines removed from any bonded wine cellar, by the proprietor of such bonded wine cellar; except that—

(A) in the case of any transfer of wine in bond as authorized under the provisions of section 5362(b), the liability for payment of the tax shall become the liability of the transferee from the time of removal of the wine from the transferor's premises, and the transferor shall thereupon be relieved of such liability; and

[See main edition for text of (B), (2) and (3);
(b)]

(As amended Pub. L. 96-39, title VIII, § 807(a)(8), July 26, 1979, 93 Stat. 281.)

AMENDMENTS

1979—Subsec. (a)(1)(A). Pub. L. 96-39 struck out "between bonded wine cellars" following "transfer of wine in bond".

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5005, 5061 of this title.

SUBPART D—BEER**§ 5051. Imposition and rate of tax**

[See main edition for text of (a) and (b)]

(c) Illegally produced beer

The production of any beer at any place in the United States shall be subject to tax at the rate prescribed in subsection (a) and such tax shall be due and payable as provided in section 5054(a)(3) unless—

(1) such beer is produced in a brewery qualified under the provisions of subchapter G, or

(2) such production is exempt from tax under section 5053(e) (relating to beer for personal or family use).

(As amended Pub. L. 95-458, § 2(b)(2)(A), Oct. 14, 1978, 92 Stat. 1256.)

AMENDMENTS

1978—Subsec. (c). Pub. L. 95-458 added subsec. (c).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-458 effective on the first day of the first calendar month beginning more than 90 days after Oct. 14, 1978, see section 2(c) of Pub. L.

95-458 set out as an Effective Date of 1978 Amendment note under section 5042 of this title.

§ 5053. Exemptions

[See main edition for text of (a) to (d)]

(e) Beer for personal or family use

Subject to regulation prescribed by the Secretary, any adult may, without payment of tax, produce beer for personal or family use and not for sale. The aggregate amount of beer exempt from tax under this subsection with respect to any household shall not exceed—

(1) 200 gallons per calendar year if there are 2 or more adults in such household, or

(2) 100 gallons per calendar year if there is only 1 adult in such household.

For purposes of this subsection, the term "adult" means an individual who has attained 18 years of age, or the minimum age (if any) established by law applicable in the locality in which the household is situated at which beer may be sold to individuals, whichever is greater.

(f) Removal as supplies for certain vessels and aircraft

For exemption as to supplies for certain vessels and aircraft, see section 309 of the Tariff Act of 1930, as amended (19 U.S.C. 1309).

(As amended Pub. L. 95-458, § 2(b)(1), Oct. 14, 1978, 92 Stat. 1255.)

AMENDMENTS

1978—Subsec. (e). Pub. L. 95-458 added subsec. (e) and redesignated former subsec. (e) as (f).

Subsec. (f). Pub. L. 95-458 redesignated former subsec. (e) as (f).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-458 effective on the first day of the first calendar month beginning more than 90 days after Oct. 14, 1978, see section 2(c) of Pub. L. 95-458 set out as an Effective Date of 1978 Amendment note under section 5042 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5051, 5054, 5092, 5222, 5401, 5674 of this title.

§ 5054. Determination and collection of tax on beer**(a) Time of determination**

[See main edition for text of (1) and (2)]

(3) Illegally produced beer

The tax on any beer produced in the United States shall be due and payable immediately upon production unless—

(A) such beer is produced in a brewery qualified under the provisions of subchapter G, or

(B) such production is exempt from tax under sections 5053(e) (relating to beer for personal or family use).

[See main edition for text of (4); (b) and (c)]

(As amended Pub. L. 95-458, § 2(b)(2)(B), Oct. 14, 1978, 92 Stat. 1256.)

¹So in original. Probably should be "section".

AMENDMENTS

1978—Subsec. (a)(3). Pub. L. 95-458 inserted provision excluding from tax the beer exempt from tax under section 5053(e).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-458 effective on the first day of the first calendar month beginning more than 90 days after Oct. 14, 1978, see section 2(c) of Pub. L. 95-458 set out as an Effective Date of 1978 Amendment note under section 5042 of this title.

SUBPART E—GENERAL PROVISIONS

Sec. 5064. Losses resulting from disaster, vandalism, or malicious mischief.

AMENDMENTS

1978—Pub. L. 95-423, § 1(b), Oct. 6, 1978, 92 Stat. 936, substituted "Losses resulting from disaster, vandalism, or malicious mischief" for "Losses caused by disaster" in item 5064.

§ 5061. Method of collecting tax

(a) Collection by return

The taxes on distilled spirits, wines, and beer shall be collected on the basis of a return. The Secretary shall, by regulation, prescribe the period or event for which such return shall be filed, the time for filing such return, the information to be shown in such return, and the time for payment of such tax.

(b) Exceptions

Notwithstanding the provisions of subsection (a), any taxes imposed on, or amounts to be paid or collected in respect of, distilled spirits, wines, and beer under—

- (1) section 5001(a)(5), (6), or (7),
(2) section 5006(c) or (d),
(3) section 5041(d),
(4) section 5043(a)(3),
(5) section 5054(a)(3) or (4), or
(6) section 5505(a);

shall be immediately due and payable at the time provided by such provisions (or if no specific time for payment is provided, at the time the event referred to in such provision occurs). Such taxes and amounts shall be assessed and collected by the Secretary on the basis of the information available to him in the same manner as taxes payable by return but with respect to which no return has been filed.

[See main edition for text of (c)]

(d) Extension of time for collecting tax on distilled spirits

In the case of distilled spirits to which subsection (a) applies which are withdrawn from the bonded premises of a distilled spirits plant under bond for deferred payment of tax, the last day for filing a return (with remittances) for each semimonthly return period shall be determined under the following table:

Table with 2 columns: 'If the return period is in—' and 'Such last day shall be—'. Rows for 1980 and 1981.

If the return period is in— Such last day shall be—
1982 or any year
thereafter The last day of the second succeeding return period.

(As amended Pub. L. 96-39, title VIII, §§ 804(b), 807(a)(9), July 26, 1979, 93 Stat. 274, 281.)

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-39, § 807(a)(9)(A), struck out "rectified distilled spirits and wines," following "distilled spirits, wines,".

Subsec. (b). Pub. L. 96-39, § 807(a)(9)(B), in provisions preceding par. (1) struck out "rectified distilled spirits and wines" following "spirits, wines," and redesignated former pars. (4) to (7) as (3) to (6), respectively. Former par. (3), which made reference to section 5026(a)(2), was struck out.

Subsec. (d). Pub. L. 96-39, § 804(b), added subsec. (d). Former subsec. (d) was struck out by Pub. L. 94-455.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

TRANSITIONAL RULES RELATING TO DETERMINATION AND PAYMENT OF TAX

Section 808 of Pub. L. 96-39 provided that:

"(a) LIABILITY FOR PAYMENT OF TAX.—Except as otherwise provided in this section, the tax on all distilled spirits which have been withdrawn from bond on determination of tax and on which tax has not been paid by the close of December 31, 1979, shall become due on January 1, 1980, and shall be payable in accordance with section 5061 of the Internal Revenue Code of 1954 [this section].

"(b) TREATMENT OF CONTROLLED STOCK AND BULK WINE.—

"(1) ELECTION WITH RESPECT TO CONTROLLED STOCK.—The proprietor of a distilled spirits plant may elect to convert any distilled spirits or wine which on January 1, 1980, is controlled stock.

"(2) ELECTION WITH RESPECT TO WINE.—The proprietor of a distilled spirits plant may elect to convert any bulk wine which on January 1, 1980, is on the premises of a distilled spirits plant.

"(3) EFFECT OF ELECTION.—If an election under paragraph (1) or (2) is in effect with respect to any controlled stock or wine—

"(A) any distilled spirits, wine, or rectification tax previously paid or determined on such controlled stock or wine shall be abated or (without interest) credited or refunded under such regulations as the Secretary shall prescribe, and

"(B) such controlled stock or wine shall be treated as distilled spirits or wine on which tax has not been paid or determined.

"(4) MAKING OF ELECTIONS.—The elections under this subsection shall be made at such time and in such manner as the Secretary shall by regulations prescribe.

"(c) TAXPAID STOCK.—

"(1) TAXPAID STOCK MAY REMAIN ON BONDED PREMISES DURING 1980.—Section 5612(a) of the Internal Revenue Code of 1954 (section 5612(a) of this title) (relating to forfeiture of taxpaid distilled spirits remaining on bonded premises) shall not apply during 1980.

"(2) SEPARATION OF TAXPAID STOCK.—All distilled spirits and wine on which tax has been paid and which are on the bonded premises of a distilled spirits plant shall be physically separated from other distilled spirits and wine. Such separation shall be by the use of separate tanks, rooms, or buildings, or by partitioning, or by such other methods as the Secretary finds will distinguish such distilled spirits

and wine from other distilled spirits and wine on the bonded premises of the distilled spirits plant.

“(d) RETURN OF DISTILLED SPIRITS PRODUCTS CONTAINING TAXPAID WINE.—With respect to distilled spirits returned to the bonded premises of distilled spirits plants during 1980, section 5008(c)(1) of the Internal Revenue Code of 1954 [section 5008(c)(1) of this title] (relating to refunds for distilled spirits returned to bonded premises) shall be treated as including a reference to section 5041 of such Code [section 5041 of this title].

“(e) RETURN OF DISTILLED SPIRITS PRODUCTS CONTAINING OTHER ALCOHOLIC INGREDIENTS.—With respect to distilled spirits to which alcoholic ingredients other than distilled spirits have been added and which have been withdrawn from a distilled spirits plant before January 1, 1980, section 5215(a) of the Internal Revenue Code of 1954 [section 5215(a) of this title] shall apply only if such spirits are returned to the distilled spirits plant from which withdrawn.

“(f) SECRETARY DEFINED.—For purposes of this section, the term ‘Secretary’ means the Secretary of the Treasury or his delegate.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5026, 5043, 5054 of this title.

§ 5062. Refund and drawback in case of exportation

[See main edition for text of (a)]

(b) Drawback

On the exportation of distilled spirits or wines manufactured, produced, bottled, or packaged in casks or other bulk containers in the United States on which an internal revenue tax has been paid or determined, and which are contained in any cask or other bulk container, or in bottles packed in cases or other containers, there shall be allowed, under regulations prescribed by the Secretary, a drawback equal in amount to the tax found to have been paid or determined on such distilled spirits or wines. In the case of distilled spirits, the preceding sentence shall not apply unless the claim for drawback is filed by the bottler or packager of the spirits and unless such spirits have been stamped or restamped, and marked, especially for export, under regulations prescribed by the Secretary. The Secretary is authorized to prescribe regulations governing the determination and payment or crediting of drawback of internal revenue tax on spirits and wines eligible for drawback under this subsection, including the requirements of such notices, bonds, bills of lading, and other evidence indicating payment or determination of tax and exportation as shall be deemed necessary.

[See main edition for text of (c)]

(As amended Pub. L. 95-176, § 1, Nov. 14, 1977, 91 Stat. 1363.)

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-176 substituted in first sentence “manufactured, produced, bottled, or packaged in casks or other bulk containers” and “other bulk container” for “manufactured or produced” and “package” and in last sentence “spirits and wines eligible for drawback under this subsection, including the requirements” for “domestic distilled spirits and wines, including the requirement”.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of subsec. (b) by Pub. L. 95-176 effective on the first day of the first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as an Effective Date of 1977 Amendment note under section 5003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5008, 5066 of this title.

§ 5064. Losses resulting from disaster, vandalism, or malicious mischief

(a) Payments

The Secretary, under such regulations as he may prescribe, shall pay (without interest) an amount equal to the amount of the internal revenue taxes paid or determined and customs duties paid on distilled spirits, wines, and beer previously withdrawn, which were lost, rendered unmarketable, or condemned by a duly authorized official by reason of—

- (1) fire, flood, casualty, or other disaster, or
- (2) breakage, destruction, or other damage (but not including theft) resulting from vandalism or malicious mischief,

if such disaster or damage occurred in the United States and if such distilled spirits, wines, or beer were held and intended for sale at the time of such disaster or other damage. The payments provided for in this section shall be made to the person holding such distilled spirits, wines, or beer for sale at the time of such disaster or other damage.

(b) Claims

(1) Period for making claim; proof

No claim shall be allowed under this section unless—

- (A) filed within 6 months after the date on which such distilled spirits, wines, or beer were lost, rendered unmarketable, or condemned by a duly authorized official, and
- (B) the claimant furnishes proof satisfactory to the Secretary that the claimant—
 - (i) was not indemnified by any valid claim of insurance or otherwise in respect of the tax, or tax and duty, on the distilled spirits, wines, or beer covered by the claim; and
 - (ii) is entitled to payment under this section.

(2) Minimum claim

Except as provided in paragraph (3)(A), no claim of less than \$250 shall be allowed under this section with respect to any disaster or other damage (as the case may be).

(3) Special rules for major disasters

If the President has determined under the Disaster Relief Act of 1974 that a “major disaster” (as defined in such Act) has occurred in any part of the United States, and if the disaster referred to in subsection (a)(1) occurs in such part of the United States by reason of such major disaster, then—

- (A) paragraph (2) shall not apply, and
- (B) the filing period set forth in paragraph (1)(A) shall not expire before the day

which is 6 months after the date on which the President makes the determination that such major disaster has occurred.

(4) Regulations

Claims under this section shall be filed under such regulations as the Secretary shall prescribe.

(c) Destruction of distilled spirits, wines, or beer

When the Secretary has made payment under this section in respect of the tax, or tax and duty, on the distilled spirits, wines, or beer condemned by a duly authorized official or rendered unmarketable, such distilled spirits, wines, or beer shall be destroyed under such supervision as the Secretary may prescribe, unless such distilled spirits, wines, or beer were previously destroyed under supervision satisfactory to the Secretary.

(d) Products of Puerto Rico

The provisions of this section shall not be applicable in respect of distilled spirits, wines, and beer of Puerto Rican manufacture brought into the United States and so lost or rendered unmarketable or condemned.

(e) Other laws applicable

All provisions of law, including penalties, applicable in respect of internal revenue taxes on distilled spirits, wines, and beer shall, insofar as applicable and not inconsistent with this section, be applied in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of such taxes.

(As amended Pub. L. 95-423, § 1(a), Oct. 6, 1978, 92 Stat. 935; Pub. L. 96-39, title VIII, § 807(a)(10), July 26, 1979, 93 Stat. 282.)

REFERENCES IN TEXT

The Disaster Relief Act of 1974, referred to in subsec. (b)(3), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

AMENDMENTS

1979—Pub. L. 96-39 struck out “rectified products,” following “distilled spirits, wines,” wherever appearing.

1978—Pub. L. 95-423 substituted “Losses resulting from disaster, vandalism, or malicious mischief” for “Losses caused by disaster” in section catchline.

Subsec. (a). Pub. L. 95-423 substituted provisions authorizing the Secretary, under such regulations as he may prescribe, to pay the prescribed amount on distilled spirits, etc., lost, rendered unmarketable, or condemned by a duly authorized official by reason of fire, flood, casualty or other disaster, breakage, destruction, or other damage (but not including theft) resulting from vandalism or malicious mischief, for provisions authorizing such payment where the President has determined under the Disaster Relief Act of 1974 that a “major disaster” has occurred, and that distilled spirits, etc., were lost, rendered unmarketable, or condemned by a duly authorized official by reason of such disaster occurring after June 30, 1959.

Subsec. (b). Pub. L. 95-423 redesignated par. (1) as (1)(A), and in such par. (1)(A) as redesignated, substituted provisions disallowing a claim unless filed within 6 months after such distilled spirits, etc., were lost,

rendered unmarketable or condemned, for provisions disallowing a claim unless filed within 6 months after the President determined that such disaster occurred, and added par. (1)(B); in par. (2) substituted provisions limiting claims to no less than \$250, except as provided in par. (3)(A), for provisions demanding proof that claimant was not indemnified by any valid claim of insurance and that he is entitled to payment under this section; and added pars. (3) and (4).

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 1(c) of Pub. L. 95-423 provided that: “The amendments made by this section [amending subsecs. (a) and (b) of this section] shall apply to disasters (or other damage) occurring on or after the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act [Oct. 6, 1978].”

§ 5066. Distilled spirits for use of foreign embassies, legations, etc.

(a) Entry into customs bonded warehouses

(1) Bottled distilled spirits withdrawn from bonded premises

Under such regulations as the Secretary may prescribe, bottled distilled spirits may be withdrawn from bonded premises as provided in section 5214(a)(4) for transfer to customs bonded warehouses in which imported distilled spirits are permitted to be stored in bond for entry therein pending withdrawal therefrom as provided in subsection (b). For the purposes of this chapter, the withdrawal of distilled spirits from bonded premises under the provisions of this paragraph shall be treated as a withdrawal for exportation and all provisions of law applicable to distilled spirits withdrawn for exportation under the provisions of section 5214(a)(4) shall apply with respect to spirits withdrawn under this paragraph.

[See main edition for text of (2) and (3)]

(b) Withdrawal from customs bonded warehouses

Notwithstanding any other provisions of law, distilled spirits entered into customs bonded warehouses under the provisions of subsection (a) 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 distilled spirits from such warehouses free of tax. Distilled spirits transferred to customs bonded warehouses under the provisions of this section 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 distilled spirits.

[See main edition for text of (c) and (d)]

(As amended Pub. L. 95-176, § 2(d), Nov. 14, 1977, 91 Stat. 1364; Pub. L. 96-39, title VIII, § 807(a)(11), July 26, 1979, 93 Stat. 282.)

AMENDMENTS

1979—Subsec. (a)(1). Pub. L. 96-39, § 807(a)(11)(A), substituted “bottled distilled spirits” for “distilled spirits bottled in bond for export under the provisions of section 5233, or bottled distilled spirits returned to bonded premises under section 5215(b).”

Subsec. (b). Pub. L. 96-39, § 807(a)(11)(B), struck out “or domestic distilled spirits transferred to customs bonded warehouses under section 5521(d)(2)” following “the provisions of subsection (a).”

1977—Subsec. (a)(1). Pub. L. 95-176 substituted par. (1) heading “Bottled distilled spirits withdrawn from bonded premises” for “Distilled spirits bottled in bond for export” and authorized withdrawal of bottled distilled spirits returned to bonded premises under section 5215(b) as provided in section 5214(a)(4).

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of subsec. (a)(1) by Pub. L. 95-176 effective on the first day of the first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as an Effective Date of 1977 Amendment note under section 5003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5008, 5214 of this title.

PART II—OCCUPATIONAL TAX

Subpart
[A. Repealed.]

AMENDMENTS

1979—Pub. L. 96-39, title VIII, § 807(b)(3), July 26, 1979, 93 Stat. 290, struck out the item relating to Subpart A “Rectifier” in the table of subparts comprising Part II.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 6423 of this title.

[SUBPART A—REPEALED]

[§§ 5081 to 5084. Repealed. Pub. L. 96-39, title VIII, § 803(b), July 26, 1979, 93 Stat. 274]

Section 5081, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1338, imposed a tax on rectifiers of distilled spirits or wines.

A prior section 5081, act Aug. 16, 1954, ch. 736, 68A Stat. 615, which imposed a tax on rectifiers of distilled spirits or wines, was omitted from the Code upon the general revision of this chapter by Pub. L. 85-859.

Section 5082, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1338, defined “rectifier”.

A prior section 5082, act Aug. 16, 1954, ch. 736, 68A Stat. 616, which defined “rectifier”, was omitted from the Code upon the general revision of this chapter by Pub. L. 85-859.

Section 5083, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1338, and amended Pub. L. 89-44, title VIII, § 805(f)(7), June 21, 1965, 79 Stat. 161, enumerated the source authority for 15 exemptions from the tax under sections 5021 and 5081 of this title.

A prior section 5083, act Aug. 16, 1954, ch. 736, 68A Stat. 616, which enumerated the source authority for certain exemptions from the tax under sections 5021 and 5081 of this title, was omitted from the Code upon the general revision of this chapter by Pub. L. 85-859.

Section 5084, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1339, made cross references to other provisions relating to rectification.

A prior section 5084, act Aug. 16, 1954, ch. 736, 68A Stat. 616, which made cross references to other provisions relating to rectification, was omitted from the Code upon the general revision of this chapter by Pub. L. 85-859.

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.

SUBPART B—BREWER

§ 5092. Definition of brewer

Every person who brews beer (except a person who produces only beer exempt from tax under section 5053(e)) and every person who produces beer for sale shall be deemed to be a brewer.

(As amended Pub. L. 95-458, § 2(b)(3), Oct. 14, 1978, 92 Stat. 1256.)

AMENDMENTS

1978—Pub. L. 95-458 inserted provision which excludes from definition of brewer a person who produces beer exempt from tax under section 5053(e).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-458 effective on the first day of the first calendar month beginning more than 90 days after Oct. 14, 1978, see section 2(c) of Pub. L. 95-458 set out as an Effective Date 1978 Amendment note under section 5042 of this title.

SUBPART D—WHOLESALE DEALERS

§ 5116. Packaging distilled spirits for industrial uses

[See main edition for text of (a)]

(b) Cross references

(1) For provisions relating to stamps for immediate containers, see section 5205(a)(1).

(2) For provisions relating to containers of distilled spirits, see section 5206.

(As amended Pub. L. 96-39, title VIII, § 807(a)(12), July 26, 1979, 93 Stat. 282.)

AMENDMENTS

1979—Subsec. (b)(1). Pub. L. 96-39 substituted “section 5205(a)(1)” for “section 5205(a)(2)”.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

Subchapter B—Qualification Requirements for Distilled Spirits Plants

Sec.

5173. Bonds.

[5174. Repealed.]

5178. Distilled spirits plants.¹

AMENDMENTS

1979—Pub. L. 96-39, title VIII, § 807(b)(4), July 26, 1979, 93 Stat. 290, substituted “Bonds” for “Qualification bonds” in item 5173, struck out item 5174 “Withdrawal bonds”, and substituted “Distilled spirits

¹So in original. Does not conform to section catchline.

plants" for "Premises of distilled spirits plants" in item 5178.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 5002, 5601 of this title.

§ 5171. Establishment

(a) Certain operations may be conducted only on bonded premises

Except as otherwise provided by law, operations as a distiller, warehouseman, or processor may be conducted only on the bonded premises of a distilled spirits plant by a person who is qualified under this subchapter.

(b) Establishment of distilled spirits plant

A distilled spirits plant may be established only by a person who intends to conduct at such plant operations as a distiller, as a warehouseman, or as both.

(c) Registration

(1) In general

Each person shall, before commencing operations at a distilled spirits plant (and at such other times as the Secretary may by regulations prescribe), make application to the Secretary for, and receive notice of, the registration of such plant.

(2) Application required where new operations are added

No operation in addition to those set forth in the application made pursuant to paragraph (1) may be conducted at a distilled spirits plant until the person has made application to the Secretary for, and received notice of, the registration of such additional operation.

(3) Secretary may establish minimum capacity and level of activity requirements

The Secretary may by regulations prescribe for each type of operation minimum capacity and level of activity requirements for qualifying premises as a distilled spirits plant.

(4) Applicant must comply with law and regulations

No plant (or additional operation) shall be registered under this section until the applicant has complied with the requirements of law and regulations in relation to the qualification of such plant (or additional operation).

(d) Permits

(1) Requirements

Each person required to file an application for registration under subsection (c) whose distilled spirits operations (or any part thereof) are not required to be covered by a basic permit under the Federal Alcohol Administration Act (27 U.S.C. secs. 203 and 204) shall, before commencing the operations (or part thereof) not so covered, apply for and obtain a permit under this subsection from the Secretary to engage in such operations (or part thereof). Subsections (b), (c), (d), (e), (f), (g), and (h) of section 5271 are hereby made applicable to persons filing applications and permits required by or issued under this subsection.

(2) Exceptions for agencies of a state or political subdivisions

Paragraph (1) shall not apply to any agency of a State or political subdivision thereof or to any officer or employee of any such agency, and no such agency, officer, or employee shall be required to obtain a permit thereunder.

(e) Cross references

(1) For penalty for failure of a distiller or processor to file application for registration as required by this section, see section 5601(a)(2).

(2) For penalty for the filing of a false application by a distiller, warehouseman, or processor of distilled spirits, see section 5601(a)(3).

(As amended Pub. L. 96-39, title VIII, § 805(a), July 26, 1979, 93 Stat. 274.)

REFERENCES IN TEXT

The Federal Alcohol Administration Act, referred to in subsec. (d)(1), is act Aug. 29, 1935, ch. 814, 49 Stat. 977, as amended, which is classified generally to chapter 8 (§ 201 et seq.) of Title 27, Intoxicating Liquors. The basic permit is covered by sections 203 and 204 of Title 27. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-39 added subsec. (a). Former subsec. (a) redesignated (c).

Subsec. (b). Pub. L. 96-39 added subsec. (b). Former subsec. (b) redesignated (d).

Subsec. (c). Pub. L. 96-39 redesignated former subsec. (a) as (c) and, as so redesignated, added provisions relating to an application requirement where new operations are added and permitting the Secretary to establish minimum capacity and level of activity requirements. Former subsec. (c) redesignated (e).

Subsec. (d). Pub. L. 96-39 redesignated former subsec. (b) as (d) and, as so redesignated, substituted reference to subsection (c) for reference to subsection (a) and struck out reference to section 5274.

Subsec. (e). Pub. L. 96-39 redesignated former subsec. (c) as (e) and, as so redesignated, substituted reference to processor for reference to rectifier and reference to warehouseman for reference to bonded warehouseman and struck out reference to bottler.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

TRANSITIONAL RULES RELATING TO ALL-IN-BOND METHOD

Section 809(a), (b) of Pub. L. 96-39 provided that:

“(a) NEW APPLICATION REQUIRED.—

“(1) IN GENERAL.—For purposes of section 5171 of the Internal Revenue Code of 1954 [this section] (relating to establishment of distilled spirits plants), each person who intends to continue any distilled spirits operation at a premises after December 31, 1979, shall be treated as intending to establish a distilled spirits plant on such premises on January 1, 1980.

“(2) CURRENT REGISTRATION TO REMAIN IN EFFECT.—Notwithstanding paragraph (1), the registration of any person under section 5171 of the Internal Revenue Code of 1954 [this section] which is in effect on December 31, 1979, shall remain in effect until final action on the application required by paragraph (1).

“(b) CONTINUING OPERATIONS AT EXISTING PREMISES.—With respect to any operation which was permitted to be conducted on May 1, 1979, at premises which were registered on such date under section 5171 of the In-

ternal Revenue Code of 1954 [this section], the determination of whether such premises qualify for registration under such section as a distilled spirits plant shall be made without regard to whether or not—

“(1) the person engaged in operations at such premises is registered under such section with respect to such premises as a distiller or warehouseman, and

“(2) such premises meet the minimum capacity and level of activity requirements for that type of operation.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5172, 5178, 5601, 5681 of this title.

§ 5172. Application

The application for registration required by section 5171(c) shall, in such manner and form as the Secretary may by regulations prescribe, identify the applicant and persons interested in the business (or businesses) covered by the application, show the nature, location and extent of the premises, show the specific type or types of operations to be conducted on such premises, and show any other information which the Secretary may by regulations require for the purpose of carrying out the provisions of this chapter.

(As amended Pub. L. 96-39, title VIII, § 807(a)(13), July 26, 1979, 93 Stat. 282.)

AMENDMENTS

1979—Pub. L. 96-39 substituted “section 5171(c)” for “section 5171(a)”.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

§ 5173. Bonds

(a) Operations at, and withdrawals from, distilled spirits plant must be covered by bond

(1) Operations

No person intending to establish a distilled spirits plant may commence operations at such plant unless such person has furnished bond covering operations at such plant.

(2) Withdrawals

No distilled spirits (other than distilled spirits withdrawn under section 5214 or 7510) may be withdrawn from bonded premises except on payment of tax unless the proprietor of the bonded premises has furnished bond covering such withdrawal.

(b) Operations bonds

The bond required by paragraph (1) of subsection (a) shall meet the requirements of paragraph (1), (2), or (3) of this subsection:

(1) One plant bond

The bond covers operations at a single distilled spirits plant.

(2) Adjacent wine cellar bond

The bond covers operations at a distilled spirits plant and at an adjacent bonded wine cellar.

(3) Area bond

The bond covers operations at 2 or more distilled spirits plants (and adjacent bonded wine cellars) which—

(A) are located in the same geographical area (as designated in regulations prescribed by the Secretary), and

(B) are operated by the same person (or, in the case of a corporation, by such corporation and its controlled subsidiaries).

(c) Withdrawal bonds

The bond required by paragraph (2) of subsection (a) shall cover withdrawals from 1 or more bonded premises the operations at which could be covered by the same operations bond under subsection (b).

(d) Unit bonds

Under regulations prescribed by the Secretary, the requirements of paragraphs (1) and (2) of subsection (a) shall be treated as met by a unit bond which covers both operations at, and withdrawals from, 1 or more bonded premises which could be covered by the same operations bond under subsection (b).

(e) Terms and conditions

(1) In general

Any bond furnished under this section shall be conditioned that the person furnishing the bond—

(A) will faithfully comply with all provisions of law and regulations relating to the activities covered by such bond, and

(B) will pay—

(i) all taxes imposed by this chapter, and

(ii) all penalties incurred by, or fines imposed on, such person for violation of any such provision.

(2) Other terms and conditions

Any bond furnished under this section shall contain such other terms and conditions as may be required by regulations prescribed by the Secretary.

(f) Amount

(1) In general

The penal sum of any bond shall be the amount determined under regulations prescribed by the Secretary.

(2) Maximum and minimum amount

The Secretary shall by regulations prescribe a minimum amount and a maximum amount for each type of bond which may be furnished under this section.

(g) Total amount available

The total amount of any bond furnished under this section shall be available for the satisfaction of any liability incurred under the terms and conditions of such bond.

(h) Special rules

For purposes of this section—

(1) Withdrawal bonds

In the case of any bond furnished under this section which covers withdrawals but not operations—

(A) such bond shall be in addition to the operations bond, and

(B) if distilled spirits are withdrawn under such bond, the operations bond shall no longer cover liability for payment of the tax on the spirits withdrawn.

(2) **Adjacent wine cellars**

(A) **Requirements**

No wine cellar shall be treated as being adjacent to a distilled spirits plant unless—

(i) such distilled spirits plant is qualified under this subchapter for the production of distilled spirits, and

(ii) such wine cellar and the distilled spirits plant are operated by the same person (or, in the case of a corporation, by such corporation and its controlled subsidiaries).

(B) **Bond in lieu of wine cellar bond**

In the case of any adjacent wine cellar, a bond furnished under this section which covers operations at such wine cellar shall be in lieu of any bond which would otherwise be required under section 5354 with respect to such wine cellar (other than supplemental bonds required under the second sentence of section 5354).

(As amended Pub. L. 96-39, title VIII, § 805(c), July 26, 1979, 93 Stat. 276.)

AMENDMENTS

1979—Pub. L. 96-39, among other changes, struck out provisions relating to liens on distillery property and the furnishing of indemnity bonds as methods of securing tax payments and added provisions relating to the one plant operations bond, which will cover the operations at a bonded wine cellar which is adjacent to the distilled spirits plant and operated by the same person.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

TRANSITIONAL RULES RELATING TO ALL-IN-BOND METHOD

Section 809(c) of Pub. L. 96-39, provided that:

“(c) **NEW BOND REQUIRED.**—For purposes of section 5173 of the Internal Revenue Code of 1954 [this section] (relating to bonds), each person who intends to continue operation at a premises after December 31, 1979, shall be treated as intending to establish a distilled spirits plant on such premises on January 1, 1980.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5005, 5175, 5176, 5177, 5213 of this title.

[§ 5174. **Repealed.** Pub. L. 96-39, title VIII, § 807(a)(14), July 26, 1979, 93 Stat. 282]

Section, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1352, and amended Pub. L. 94-455, title XIX, §§ 1905(a)(14), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1820, 1834, related to withdrawal bonds.

A prior section 5174, act Aug. 16, 1954, ch. 736, 68A Stat. 630, which related to “registry of stills”, was omitted from the Code upon the general revision of this chapter by Pub. L. 85-859. See now sections 5179 and 5505(d) of this title.

Provisions similar to those comprising subsec. (a)(1) of section 5174, added by Pub. L. 85-859, title I, § 201, Sept. 2, 1958, 725 Stat. 1352, relating to the withdrawal from bonded premises of distilled spirits on the furnishing of a bond by the proprietor of the bonded premises to secure payment of the tax on such spirits, were contained in prior sections 5176(b) and 5232(b), act Aug. 16, 1954, ch. 736, 68A Stat. 629, 643, prior to the general revision of this chapter by Pub. L. 85-859.

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.

§ 5175. Export bonds

(a) **Requirements**

No distilled spirits shall be withdrawn from bonded premises for exportation, or for transfer to a customs bonded warehouse, without payment of tax unless the exporter has furnished bond to cover such withdrawal under such regulations and conditions, and in such form and penal sum, as the Secretary may prescribe.

(b) **Exception where proprietor withdraws spirits for exportation**

In the case of distilled spirits withdrawn from bonded premises by the proprietor for exportation without payment of tax, the bond of such proprietor required to be furnished under paragraph (1) of section 5173(a) covering such premises shall cover such exportation, and subsection (a) shall not apply.

[See main edition for text of (c)]

(As amended Pub. L. 95-176, § 3(b), Nov. 14, 1977, 91 Stat. 1365; Pub. L. 96-39, title VIII, § 807(a)(15), July 26, 1979, 93 Stat. 282.)

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-39, § 807(a)(15)(A), struck out “for storage therein pending exportation” following “customs bonded warehouse”.

Subsec. (b). Pub. L. 96-39, § 807(a)(15)(B), substituted “from bonded premises by the proprietor for exportation without payment of tax, the bond of such proprietor required to be furnished under paragraph (1) of section 5173(a) covering such premises shall cover such exportation, and subsection (a) shall not apply” for “for exportation without payment of tax on application of the proprietor of bonded premises, the bond of such proprietor covering such bonded premises shall cover such exportation and subsection (a) shall not be applicable”.

1977—Subsec. (a). Pub. L. 95-176 required export bonds for withdrawals from bonded premises, without payment of tax, for transfer to a customs bonded warehouse for storage therein pending exportation.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of subsec. (a) by Pub. L. 95-176 effective on the first day of the first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as an Effective Date of 1977 Amendment note under section 5003 of this title.

§ 5176. New or renewed bonds**(a) General**

New bonds shall be required under sections 5173 and 5175 in case of insolvency or removal of any surety, and may, at the discretion of the Secretary, be required in any other contingency affecting the validity or impairing the efficiency of such bond.

(b) Bonds

If the proprietor of a distilled spirits plant fails or refuses to furnish a bond required under paragraph (1) of section 5173(a) or to renew the same, and neglects to immediately withdraw the spirits and pay the tax thereon, the Secretary shall proceed to collect the tax.

(As amended Pub. L. 96-39, title VIII, § 807(a)(16), July 26, 1979, 93 Stat. 282.)

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-39, § 807(a)(16)(A), struck out “, 5174,” following “sections 5173”.

Subsec. (b). Pub. L. 96-39, § 807(a)(16)(A), substituted reference to paragraph (1) of section 5173(a) for reference to section 5173(c) and struck out provisions relating to failure or refusal of the proprietor of a distilled spirits plant to withdraw any spirits from storage on bonded premises before the expiration of the time limited on the bond and pay the tax thereon.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

§ 5177. Other provisions relating to bonds**(a) General provisions relating to bonds**

The provisions of section 5551 shall be applicable to the bonds required by or given under sections 5173 and 5175.

[See main edition for text of (b)]

(As amended Pub. L. 96-39, title VIII, § 807(a)(17), July 26, 1979, 93 Stat. 282.)

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-39 struck out “, 5174,” following “sections 5173”.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

§ 5178. Premises of distilled spirits plants**(a) Location, construction, and arrangement****(1) General**

(A) The premises of a distilled spirits plant shall be as described in the application required by section 5171(c). The Secretary shall prescribe such regulations relating to the location, construction, arrangement, and protection of distilled spirits plants as he deems necessary to facilitate inspection and afford adequate security to the revenue.

[See main edition for text of (B) and (C)]

(2) Production operations

(A) Any person establishing a distilled spirits plant may, as described in his application for registration, produce distilled spirits from any source or substance.

(B) The distilling system shall be continuous and shall be so designed and constructed and so connected as to prevent the unauthorized removal of distilled spirits before their production gauge.

(C) The Secretary is authorized to order and require—

(i) such identification of, changes of, and additions to, distilling apparatus, connecting pipes, pumps, tanks, and any machinery connected with or used in or on the premises, and

(ii) such fastenings, locks, and seals to be part of any of the stills, tubs, pipes, tanks, and other equipment, as he may deem necessary to facilitate inspection and afford adequate security to the revenue.

(3) Warehousing operations

(A) Any person establishing a distilled spirits plant for the production of distilled spirits may, as described in the application for registration, warehouse bulk distilled spirits on the bonded premises of such plant.

(B) Distilled spirits plants for the bonded warehousing of bulk distilled spirits elsewhere than as described in subparagraph (A) may be established at the discretion of the Secretary by proprietors referred to in subparagraph (A) or by other persons under such regulations as the Secretary shall prescribe.

(A) may be established at the discretion of the Secretary by proprietors referred to in subparagraph (A) or by other persons under such regulations as the Secretary shall prescribe.

(4) Processing operations

Any person establishing a distilled spirits plant may, as described in the application for registration, process distilled spirits on the bonded premises of such plant.

[(5) Omitted]

[See main edition for text of (b) and (c)]

(As amended Pub. L. 95-176, § 2(b), Nov. 14, 1977, 91 Stat. 1364; Pub. L. 96-39, title VIII, §§ 805(b)(1), 807(a)(18), July 26, 1979, 93 Stat. 275, 283.)

AMENDMENTS

1979—Subsec. (a)(1)(A). Pub. L. 96-39, § 807(a)(18), substituted “section 5171(c)” for “section 5171(a)”.

Subsec. (a)(2). Pub. L. 96-39, § 805(b)(1), substituted in catchline “operations” for “facilities” and in subpar. (A) “produce” for “provided facilities which may be used for the production of” and struck out in subpar. (B) “closed at all points where potable or readily recoverable spirits are present and the distilling apparatus” following “shall be continuous and”.

Subsec. (a)(3). Pub. L. 96-39, § 805(b)(1), substituted in catchline “Warehousing operations” for “Bonded warehousing facilities” and in subpar. (A) “the application” for “his application” and “warehouse bulk distilled spirits” for “establish warehousing facilities” and struck out subpar. (C), which related to facilities for the storage on bonded premises of distilled spirits in casks, packages, cases, or similar portable approved containers and subpar. (D), which related to the establishment of a portion of the premises established

under subpar. (C) as an export storage facility for the storage of distilled spirits returned to bonded premises under section 5215(b).

Subsec. (a)(4). Pub. L. 96-39, § 805(b)(1), substituted provisions relating to processing operations for provisions relating to bottling facilities.

Subsec. (a)(5). Pub. L. 96-39, § 805(b)(1), omitted par. (5), which related to the arrangement and segregation of denaturing facilities by regulation of the Secretary.

1977—Subsec. (a)(3)(D). Pub. L. 95-176 added subpar. (D).

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Enactment of subsec. (a)(3)(D) by Pub. L. 95-176 effective on the first day of the first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as an Effective Date of 1977 Amendment note under section 5003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5511, 5601 of this title.

§ 5180. Signs

(a) Requirements

Every person engaged in distilled spirits operations shall place and keep conspicuously on the outside of his place of business a sign showing the name of such person and denoting the business, or businesses, in which engaged. The sign required by this subsection shall be in such form and contain such information as the Secretary shall by regulations prescribe.

[See main edition for text of (b)]

(As amended Pub. L. 96-39, title VIII, § 807(a)(19), July 26, 1979, 93 Stat. 283.)

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-39 substituted "distilled spirits operation" for "distilling, bonded warehousing, rectifying, or bottling of distilled spirits".

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

§ 5181. Cross references

For provisions requiring payment of special (occupational) tax as wholesale liquor dealer, see section 5111, or as retail liquor dealer, see section 5121.

(As amended Pub. L. 96-39, title VIII, § 807(a)(20), July 26, 1979, 93 Stat. 283.)

AMENDMENTS

1979—Pub. L. 96-39 struck out "as rectifier, see section 5081, or" following "(occupational) tax".

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

Subchapter C—Operation of Distilled Spirits Plants

Part
[III. Repealed.]

AMENDMENTS

1979—Pub. L. 96-39, title VIII, § 807(b)(5), July 26, 1979, 93 Stat. 290, struck out the item relating to Part III "Operations on bottling premises" in the table of Parts comprising Subchapter C.

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 5316 of this title.

PART I—GENERAL PROVISIONS

§ 5201. Regulation of operations

(a) General

Proprietors of distilled spirits plants shall conduct all operations authorized to be conducted on the premises of such plants under such regulations as the Secretary shall prescribe.

[See main edition for text of (b) to (d)]

(As amended Pub. L. 96-39, title VIII, § 807(a)(21), July 26, 1979, 93 Stat. 283.)

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-39 substituted "all operations authorized to be conducted" for "their operations relating to the production, storage, denaturing, rectification and bottling of distilled spirits, and all other operations authorized to be conducted".

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

§ 5202. Supervision of operations

All operations on the premises of a distilled spirits plant shall be conducted under such supervision and controls (including the use of Government locks and seals) as the Secretary shall by regulations prescribe.

(As amended Pub. L. 96-39, title VIII, § 806(a), July 26, 1979, 93 Stat. 279.)

AMENDMENTS

1979—Pub. L. 96-39 substituted provisions making on-site supervision and the use of government locks and seals optional at the discretion of the Secretary of the Treasury for provisions whereby bonded warehouses are required to be kept under government locks and certain activities are required to be conducted under government supervision.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

§ 5203. Entry and examination of premises

[See main edition for text of (a)]

(b) Right of entry and examination

It shall be lawful for any internal revenue officer at all times, as well by night as by day, to enter any distilled spirits plant, or any other

premises where distilled spirits operations are carried on, or structure or place used in connection therewith for storage or other purposes; to make examination of the materials, equipment, and facilities thereon; and make such gauges and inventories as he deems necessary. Whenever any officer, having demanded admittance, and having declared his name and office, is not admitted into such premises by the proprietor or other person having charge thereof, it shall be lawful for such officer, at all times, as well by night as by day, to use such force as is necessary for him to gain entry to such premises.

(c) **Furnishing facilities and assistance**

On the demand of any internal revenue officer or agent, every proprietor of a distilled spirits plant shall furnish the necessary facilities and assistance to enable the officer or agent to gauge the spirits in any container or to examine any apparatus, equipment, containers, or materials on such premises. Such proprietor shall also, on demand of such officer or agent, open all doors, and open for examination all boxes, packages, and all casks, barrels, and other vessels on such premises.

(d) **Authority to break up grounds or walls**

It shall be lawful for any internal revenue officer, and any person acting in his aid, to break up the ground on any part of a distilled spirits plant or any other premises where distilled spirits operations are carried on, or any ground adjoining or near to such plant or premises, or any wall or partition thereof, or belonging thereto, or other place, to search for any pipe, cock, private conveyance, or utensil; and, upon finding any such pipe or conveyance leading therefrom or thereto, to break up any ground, house, wall, or other place through or into which such pipe or other conveyance leads, and to break or cut away such pipe or other conveyance, and turn any cock, or to examine whether such pipe or other conveyance conveys or conceals any distilled spirits, mash, wort, or beer, or other liquor, from the sight or view of the officer, so as to prevent or hinder him from taking a true account thereof.

[See main edition for text of (e)]

(As amended Pub. L. 96-39, title VIII, § 807(a)(22), July 26, 1979, 93 Stat. 283.)

AMENDMENTS

1979—Subsec. (b). Pub. L. 96-39, § 807(a)(22)(A), substituted “where distilled spirits operations are carried on” for “where distilled spirits are produced or rectified”.

Subsec. (c). Pub. L. 96-39, § 807(a)(22)(B), substituted “on such premises” for “not under the control of the internal revenue officer in charge”.

Subsec. (d). Pub. L. 96-39, § 807(a)(22)(C), substituted “where distilled spirits operations are carried on” for “where distilled spirits are produced or rectified”.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

§ 5204. Gauging

(a) **General**

The Secretary may by regulations require the gauging of distilled spirits for such purposes, as he may deem necessary, and all required gauges shall be made at such times and under such conditions as he may by regulations prescribe.

[See main edition for text of (b) and (c)]

(As amended Pub. L. 96-39, title VIII, § 807(a)(23), July 26, 1979, 93 Stat. 283.)

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-39 struck out “, in addition to those specified in section 5202(f),” following “spirits for such purposes”.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

§ 5205. Stamps

(a) **Stamps for containers of distilled spirits**

(1) **Containers of distilled spirits**

No person shall transport, possess, buy, sell, or transfer any distilled spirits, unless the immediate container thereof is stamped by a stamp evidencing the determination of the tax or indicating compliance with the provisions of this chapter. The provisions of this paragraph shall not apply to—

(A) distilled spirits, lawfully withdrawn from bond, placed in containers for immediate consumption on the premises or for preparation for such consumption;

(B) distilled spirits in bond or in customs custody;

(C) distilled spirits, lawfully withdrawn from bond, in immediate containers stamped under other provisions of internal revenue or customs law or regulations issued pursuant thereto;

(D) distilled spirits on which no internal revenue tax is required to be paid;

(E) distilled spirits lawfully withdrawn from bond and not intended for sale or for use in the manufacture or production of any article intended for sale; or

(F) any regularly established common carrier receiving, transporting, delivering, or holding for transportation or delivery distilled spirits in the ordinary course of its business as a common carrier.

(2) **Stamp regulations**

The Secretary shall prescribe regulations with respect to the supplying or procuring of stamps required under this subsection or section 5235, the time and manner of applying for, issuing, affixing, and destroying such stamps, the form of such stamps and the information to be shown thereon, applications for the stamps, proof that applicants are entitled to such stamps, and the method of accounting for such stamps, and such other regulations as he may deem necessary for the enforcement of this subsection. In the case of a container of a capacity of 5 wine gallons or

less, the stamp shall be affixed in such a manner as to be broken when the container is opened, unless the container is one that cannot again be used after opening.

[(3) Redesignated (2)]

[See main edition for text of (b)]

(c) Stamps for containers of distilled spirits withdrawn for exportation

[See main edition for text of (1)]

(2) Exportation with benefit of drawback

The Secretary may require any container of distilled spirits bottled or packaged especially for export with benefit of drawback to be stamped by a stamp under such regulations as he may prescribe.

(d) Issue for restamping

The Secretary, under regulations prescribed by him, may authorize restamping of containers of distilled spirits which have been duly stamped but from which the stamps have been lost or destroyed by unavoidable accident.

(e) Accountability

All stamps relating to distilled spirits shall be used and accounted for under such regulations as the Secretary may prescribe.

(f) Effacement of stamps, marks, and brands on emptied containers

Every person who empties, or causes to be emptied, any immediate container of distilled spirits bearing any stamp, mark, or brand required by law or regulations prescribed pursuant thereto (other than containers stamped under subsection (a) or section 5235) shall at the time of emptying such container efface and obliterate such stamp, mark, or brand, except that the Secretary may, by regulations, waive any requirement of this subsection as to the effacement or obliteration of marks or brands (or portions thereof) where he determines that no jeopardy to the revenue will be involved.

(g) Form of stamp

Any stamp required by or prescribed pursuant to the provisions of this section or section 5235 may consist of such coupon, serially-numbered ticket, imprint, design, other form of stamp, or other device as the Secretary shall by regulations prescribe.

(h) Cross references

(1) For general provisions relating to stamps, see chapter 69.

(2) For provisions relating to the stamping, marking, and branding of containers of distilled spirits by proprietors, see section 5204(c).

(3) For provisions relating to the stamping of bottled alcohol, see section 5235.

(4) For penalties and forfeitures relating to stamps, marks, and brands, see sections 5604, 5613, 7208, and 7209.

[(i) Redesignated (h)]

(As amended Pub. L. 95-176, § 2(c), Nov. 14, 1977, 91 Stat. 1364; Pub. L. 96-39, title VIII, § 807(a)(24), July 26, 1979, 93 Stat. 283.)

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-39, § 807(a)(24)(A), (B), redesignated former pars. (2) and (3) as (1) and (2), re-

spectively, and subpars. (E) to (G) of par. (1) as so redesignated as subpars. (D) to (F) thereof, respectively. Former par. (1), relating to stamps for containers of distilled spirits, and former par. (2)(D), relating to distilled spirits, lawfully withdrawn from bond, in actual process of rectification, blending, or bottling, or in actual use in processes of manufacture, were struck out.

Subsec. (c)(2). Pub. L. 96-39, § 807(a)(24)(C), struck out provisions relating to the applicability of this paragraph to every container of distilled spirits returned to the bonded premises under the provisions of section 5215(b).

Subsecs. (d) to (g). Pub. L. 96-39, § 807(a)(24)(D), redesignated former subsecs. (e) to (h) as (d) to (g), respectively. Former subsec. (d), relating to stamps for containers of 5 wine gallons or more of distilled spirits filled on bottling premises, was struck out.

Subsec. (h). Pub. L. 96-39, § 807(a)(24)(D), (E), redesignated former subsec. (i) as (h) and par. (5) of subsec. (h), as so redesignated, as par. (4). Former subsec. (h) redesignated as (g) and former subsec. (i)(4), relating to a cross reference to section 5522(a) for the authority of the Secretary to prescribe regulations regarding stamps for distilled spirits withdrawn to manufacturing bonded warehouses, was struck out.

Subsec. (i). Pub. L. 96-39, § 807(a)(24)(D), redesignated former subsec. (i) as (h).

1977—Subsec. (c)(2). Pub. L. 95-176 made par. (2) applicable to every container of distilled spirits returned to the bonded premises under the provisions of section 5215(b).

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment of subsec. (c)(2) by Pub. L. 95-176 effective on the first day of the first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as an Effective Date of 1977 Amendment note under section 5003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5116, 5235, 5604 of this title.

§ 5206. Containers

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5116 of this title.

§ 5207. Records and reports

(a) Records of distilled spirits plant proprietors

Every distilled spirits plant proprietor shall keep records in such form and manner as the Secretary shall by regulations prescribe of:

(1) The following production activities—

(A) the receipt of materials intended for use in the production of distilled spirits, and the use thereof,

(B) the receipt and use of distilled spirits received for redistillation, and

(C) the kind and quantity of distilled spirits produced.

(2) The following storage activities—

(A) the kind and quantity of distilled spirits, wines, and alcoholic ingredients entered into storage,

(B) the kind and quantity of distilled spirits, wines, and alcoholic ingredients re-

moved, and the purpose for which removed, and

(C) the kind and quantity of distilled spirits returned to storage.

(3) The following denaturation activities—

(A) the kind and quantity of denaturants received and used or otherwise disposed of,

(B) the kind and quantity of distilled spirits denatured, and

(C) the kind and quantity of denatured distilled spirits removed.

(4) The following processing activities—

(A) all distilled spirits, wines, and alcoholic ingredients received or transferred,

(B) the kind and quantity of distilled spirits packaged or bottled,

(C) the kind and quantity of distilled spirits removed from his premises, and

(D) the receipt, use, and balance on hand of all stamps required by law or regulations to be used by him.

(5) Such additional information with respect to activities described in paragraphs (1), (2), (3), and (4), and with respect to other activities, as may by regulations be required.

(b) Reports

Every person required to keep records under subsection (a) shall render such reports covering his operations, at such times and in such form and manner and containing such information, as the Secretary shall by regulations prescribe.

(c) Preservation and inspection

The records required by subsection (a) and a copy of each report required by subsection (b) shall be kept on the premises where the operations covered by the record are carried on and shall be available for inspection by any internal revenue officer during business hours, and shall be preserved by the person required to keep such records and reports for such period as the Secretary shall by regulations prescribe.

(d) Penalty

For penalty and forfeiture for refusal or neglect to keep records required under this section, or for false entries therein, see sections 5603 and 5615(5).

[(e) Redesignated (d)]

(As amended Pub. L. 95-176, § 2(e), Nov. 14, 1977, 91 Stat. 1364; Pub. L. 96-39, title VIII, § 807(a)(25), July 26, 1979, 93 Stat. 283.)

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-39 struck out provisions relating to the bottling of distilled spirits in bond and relating to the kind and quantity of distilled spirits returned to bonded premises and added provisions relating to the kind and quantity of distilled spirits returned to storage and relating to receipt, use, and balance on hand of all stamps required by law or regulations to be used by the Secretary.

Subsec. (b). Pub. L. 96-39 redesignated former subsec. (c) as (b) and, as so redesignated, struck out “or (b)” following “subsection (a)”. Former subsec. (b), relating to records of rectifiers and bottlers, was struck out.

Subsec. (c). Pub. L. 96-39 redesignated former subsec. (d) as (c) and, as so redesignated, struck out “and (b),” following “subsection (a)” and substituted “subsection (b)” for “subsection (c)”. Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 96-39 redesignated former subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 96-39 redesignated former subsec. (e) as (d).

1977—Subsec. (a)(10). Pub. L. 95-176, § 2(e)(3), added par. (10). Former par. (10) redesignated (11).

Subsec. (a)(11). Pub. L. 95-176, § 2(e)(2), redesignated former par. (10) as (11).

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Enactment of subsec. (a)(10) and redesignation as subsec. (a)(11) of former subsec. (a)(10) by Pub. L. 95-176 effective on the first day of the first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as an Effective Date of 1977 Amendment note under section 5003 of this title.

PART II—OPERATIONS ON BONDED PREMISES

SUBPART A—GENERAL

§ 5211. Production and entry of distilled spirits

Distilled spirits in the process of production in a distilled spirits plant may be held prior to the production gauge only for so long as is reasonably necessary to complete the process of production. Under such regulations as the Secretary shall prescribe, all distilled spirits produced in a distilled spirits plant shall be gauged and a record made of such gauge within a reasonable time after the production thereof has been completed. The proprietor shall, pursuant to such production gauge and in accordance with such regulations as the Secretary shall prescribe, make appropriate entry for—

(1) deposit of such spirits on bonded premises for storage or processing;

(2) withdrawal upon determination of tax as authorized by law;

(3) withdrawal under the provisions of section 5214; and

(4) transfer for redistillation under the provisions of section 5223.

(As amended Pub. L. 96-39, title VIII, § 807(a)(26), July 26, 1979, 93 Stat. 284.)

AMENDMENTS

1979—Pub. L. 96-39 substituted in par. (1) “on bonded premises for storage or processing” for “in storage on bonded premises” and struck out par. (5), which related to an appropriate entry by the proprietor for immediate denaturation.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

§ 5212. Transfer of distilled spirits between bonded premises

Bulk distilled spirits on which the internal revenue tax has not been paid or determined as authorized by law may, under such regulations as the Secretary shall prescribe, be transferred in bond between bonded premises in any ap-

proved container. For the purposes of this chapter, the removal of bulk distilled spirits for transfer in bond between bonded premises shall not be construed to be a withdrawal from bonded premises.

(As amended Pub. L. 96-39, title VIII, § 805(b)(2), July 26, 1979, 93 Stat. 276.)

AMENDMENTS

1979—Pub. L. 96-39 substituted "Bulk distilled spirits" for "Distilled spirits" and "bulk distilled spirits" for "distilled spirits".

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

§ 5213. Withdrawal of distilled spirits from bonded premises on determination of tax

Subject to the provisions of section 5173, distilled spirits may be withdrawn from the bonded premises of a distilled spirits plant on payment or determination of tax thereon, in approved containers, under such regulations as the Secretary shall prescribe.

(As amended Pub. L. 96-39, title VIII, § 807(a)(27), July 26, 1979, 93 Stat. 285.)

AMENDMENTS

1979—Pub. L. 96-39 substituted "Subject to the provisions of section 5173" for "On application to the Secretary and subject to the provisions of section 5174(a)".

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5006 of this title.

§ 5214. Withdrawal of distilled spirits from bonded premises free of tax or without payment of tax

(a) Purposes

Distilled spirits on which the internal revenue tax has not been paid or determined may, subject to such regulations as the Secretary shall prescribe, be withdrawn from the bonded premises of any distilled spirits plant in approved containers—

[See main edition for text of (1) to (5)]

(6) without payment of tax for transfer to manufacturing bonded warehouses for manufacturing in such warehouses for export, as authorized by law; or

[See main edition for text of (7) and (8)]

(9) without payment of tax, for transfer (for the purpose of storage pending exportation) to any customs bonded warehouse from which distilled spirits may be exported, and distilled spirits transferred to a customs bonded warehouse under this paragraph shall be entered, stored, and accounted for under

such regulations and bonds as the Secretary may prescribe; or

(10) without payment of tax by a proprietor of bonded premises for use in research, development, or testing (other than consumer testing or other market analysis) of processes, systems, materials, or equipment, relating to distilled spirits or distilled spirits operations, under such limitations and conditions as to quantities, use, and accountability as the Secretary may by regulations require for the protection of the revenue; or

(11) free of tax when contained in an article (within the meaning of section 5002(a)(14)).

(b) Cross references

[See main edition for text of (1) to (3)]

(4) For provisions relating to withdrawal of distilled spirits without payment of tax for manufacture in manufacturing bonded warehouse, see 19 U.S.C. 1311.

(5) For provisions relating to foreign-trade zones, see 19 U.S.C. 81c.

(6) For provisions authorizing regulations for withdrawal of distilled spirits free of tax for use of the United States, see section 7510.

(7) For provisions authorizing removal of distillates to bonded wine cellars for use in the production of distilling material, see section 5373(c).

(8) For provisions relating to distilled spirits for use of foreign embassies, legations, etc., see section 5066.

(As amended Pub. L. 95-176, §§ 3(a), (d), 4(a), Nov. 14, 1977, 91 Stat. 1365; Pub. L. 96-39, title VIII, § 807(a)(28), July 26, 1979, 93 Stat. 285.)

AMENDMENTS

1979—Subsec. (a)(6). Pub. L. 96-39, § 807(a)(28)(A), inserted "for manufacturing in such warehouses for export" following "bonded warehouses" and substituted "by law" for "by section 5522(a)".

Subsec. (a)(9). Pub. L. 93-39, § 807(a)(28)(B), struck out "in the case of distilled spirits bottled in bond for export under section 5233 or distilled spirits returned to bonded premises under section 5215(b)," following "payment of tax."

Subsec. (a)(10). Pub. L. 96-39, § 807(a)(28)(C), (D), substituted "distilled spirits operations" for "distillery operations".

Subsec. (a)(11). Pub. L. 96-39, § 807(a)(28)(D), added par. (11).

Subsec. (b)(4). Pub. L. 96-39, § 807(a)(28)(E), added par. (4). Former par. (4) redesignated (5).

Subsec. (b)(5) to (8). Pub. L. 96-39, § 807(a)(28)(E), redesignated former pars. (4) to (7) as (5) to (8).

1977—Subsec. (a)(9). Pub. L. 95-176, § 3(a), substituted provisions for withdrawal of distilled spirits from bonded premises without payment of tax where the distilled spirits are bottled in bond for export or are returned to bonded premises for transfer (for the purpose of storage pending exportation) to any customs bonded warehouse for exportation and requiring the transferred distilled spirits to be entered, stored, and accounted for for prior provision for tax free withdrawals for use as samples in making tests or laboratory analyses.

Subsec. (a)(10). Pub. L. 95-176, § 4(a), added par. (10).

Subsec. (b)(7). Pub. L. 95-176, § 3(d), added par. (7).

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Enactment of subsecs. (a)(10) and (b)(7) and amendment of subsec. (a)(9) by Pub. L. 95-176 effective on

the first day of the first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-176, set out as an Effective Date of 1977 Amendment note under section 5003 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5001, 5002, 5003, 5004, 5005, 5008, 5066, 5173, 5205, 5211, 5244, 5271, 5273, 5275, 5314, 5607 of this title.

§ 5215. Return of tax determined distilled spirits to bonded premises

(a) General rule

Under such regulations as the Secretary may prescribe, distilled spirits on which tax has been determined or paid may be returned to the bonded premises of a distilled spirits plant but only for destruction, denaturation, redistillation, reconditioning, or rebottling.

(b) Applicability of chapter to distilled spirits returned to a distilled spirits plant

All provisions of this chapter applicable to distilled spirits in bond shall be applicable to distilled spirits returned to bonded premises under the provisions of this section on such return.

(c) Return of bottled distilled spirits for relabeling and restamping

Under such regulations as the Secretary shall prescribe, bottled distilled spirits withdrawn from bonded premises may be returned to bonded premises for relabeling or restamping, and the tax under section 5001 shall not again be collected on such spirits.

(d) Cross reference

For provisions relating to the abatement, credit, or refund of tax on distilled spirits returned to a distilled spirits plant under this section, see section 5008(c).

(As amended Pub. L. 95-176, § 2(a), Nov. 14, 1977, 91 Stat. 1363; Pub. L. 96-39, title VIII, § 807(a)(29), July 26, 1979, 93 Stat. 285.)

AMENDMENTS

1979—Pub. L. 96-39 authorized the return of distilled spirits to the bonded premises of the distilled spirits plant for certain enumerated purposes except mere storage.

1977—Subsec. (a). Pub. L. 95-176 reenacted existing provisions but deleted last sentence relating to applicability of chapter to distilled spirits returned to bonded premises, now covered in subsec. (d) of this section.

Subsec. (b). Pub. L. 95-176 added subsec. (b). Former subsec. (b) redesignated (e).

Subsec. (c). Pub. L. 95-176 added subsec. (c).

Subsec. (d). Pub. L. 95-176 redesignated last sentence of former subsec. (a) as subsec. (d) and inserted the introductory phrase "Except as otherwise provided in this section."

Subsec. (e). Pub. L. 95-176 redesignated former subsec. (b) as par. (1) and added par. (2).

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-176 effective on the first day of the first calendar month beginning more than 90 days after Nov. 14, 1977, see section 7 of Pub. L. 95-

176, set out as an Effective Date of 1977 Amendment note under section 5003 of this title.

DISTILLED SPIRITS TO WHICH ALCOHOLIC INGREDIENTS OTHER THAN DISTILLED SPIRITS HAVE BEEN ADDED AND WHICH HAVE BEEN WITHDRAWN FROM DISTILLED SPIRITS PLANTS BEFORE JANUARY 1, 1980

Subsec. (a) of this section to apply to distilled spirits to which alcoholic ingredients other than distilled spirits have been added and which have been withdrawn from a distilled spirits plant before Jan. 1, 1980, only if such spirits are returned to the distilled spirits plant from which withdrawn, see section 808(e) of Pub. L. 96-39, set out as a note under section 5061 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5008, 5612 of this title.

SUBPART B—PRODUCTION

§ 5221. Commencement, suspension, and resumption of operations

(a) Commencement, suspension, and resumption

The proprietor of a distilled spirits plant authorized to produce distilled spirits shall not commence production operations until written notice has been given to the Secretary stating when operations will begin. Any proprietor of a distilled spirits plant desiring to suspend production of distilled spirits shall give notice in writing to the Secretary, stating when he will suspend such operations. Pursuant to such notice, an internal revenue officer shall take such action as the Secretary shall prescribe to prevent the production of distilled spirits. No proprietor, after having given such notice, shall, after the time stated therein, produce distilled spirits on such premises until he again gives notice in writing to the Secretary stating the time when he will resume operations. At the time stated in the notice of resuming such operations an internal revenue officer shall take such action as is necessary to permit operations to be resumed. The notices submitted under this section shall be in such form and submitted in such manner as the Secretary may by regulations require. Nothing in this section shall apply to suspensions caused by unavoidable accidents; and the Secretary shall prescribe regulations to govern such cases of involuntary suspension.

[See main edition for text of (b)]

(As amended Pub. L. 96-39, title VIII, § 806(b), July 26, 1979, 93 Stat. 279.)

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-39 substituted "until written notice has been given to the Secretary stating when operations will begin" for "until an internal revenue officer has been assigned to the premises".

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

§ 5222. Production, receipt, removal, and use of distilling materials

(a) Production, removal, and use

[See main edition for text of (1)]

(2) Nothing in this subsection shall be construed to apply to—

[See main edition for text of (A) and (B)]

(C) products exempt from tax under the provisions of section 5042 or 5053(e); or

[See main edition for text of (D); (b)]

(c) Processing of distilled spirits containing extraneous substances

The Secretary may by regulations provide for the removal from the distilling system, and the addition to the fermented or unfermented distilling material, of distilled spirits containing substantial quantities of fusel oil or aldehydes, or other extraneous substances.

[See main edition for text of (d)]

(As amended Pub. L. 95-458, § 2(b)(4), Oct. 14, 1978, 92 Stat. 1256; Pub. L. 96-39, title VIII, § 807(a)(30), July 26, 1979, 93 Stat. 286.)

AMENDMENTS

1979—Subsec. (c). Pub. L. 96-39 struck out “, in the production facilities of a distilled spirits plant” following “distilling material”.

1978—Subsec. (a)(2)(C). Pub. L. 95-458 inserted reference to section 5053(e).

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-458 effective on the first day of the first calendar month beginning more than 90 days after Oct. 14, 1978, see section 2(c) of Pub. L. 95-458 set out as an Effective Date of 1978 Amendment note under section 5042 of this title.

§ 5223. Redistillation of spirits, articles, and residues

[See main edition for text of (a) and (b)]

(c) Redistillation of articles and residues

Articles, containing denatured distilled spirits, which were manufactured under the provisions of subchapter D or on the bonded premises of a distilled spirits plant, and the spirits residues of manufacturing processes related thereto, may be received, and the distilled spirits therein recovered by redistillation, on the bonded premises of a distilled spirits plant authorized to produce distilled spirits, under such regulations as the Secretary may prescribe.

[See main edition for text of (d)]

(e) Products of redistillation

All distilled spirits redistilled on bonded premises subsequent to production gauge shall be treated the same as if such spirits had been originally produced by the redistiller and all provisions of this chapter applicable to the

original production of distilled spirits shall be applicable thereto. Any prior obligation as to taxes, liens, and bonds with respect to such distilled spirits shall be extinguished on redistillation. Nothing in this subsection shall be construed as affecting any provision of law relating to the labeling of distilled spirits or as limiting the authority of the Secretary to regulate the marking, branding, or identification of distilled spirits redistilled under this section.

(As amended Pub. L. 96-39, title VIII, § 807(a)(31), July 26, 1979, 93 Stat. 286.)

AMENDMENTS

1979—Subsec. (c). Pub. L. 96-39, § 807(a)(31)(A), inserted “or on the bonded premises of a distilled spirits plant” following “subchapter D.”.

Subsec. (e). Pub. L. 96-39, § 807(a)(31)(B), struck out provisions relating to the treatment of the processing of distilled spirits, subsequent to production gauge, in the manufacture of vodka in the production facilities of a distilled spirits plant as a redistillation of the spirits for purposes of this subsection, subsection (a), and sections 5025(d) and 5215.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5004, 5005, 5211, 5607 of this title.

SUBPART C—STORAGE

Sec.

5231. Entry for deposit.
[5233, 5234. Repealed.]

AMENDMENTS

1979—Pub. L. 96-39, title VIII, § 807(b)(6), July 26, 1979, 93 Stat. 290, substituted “Entry for deposit” for “Entry for deposit in storage” in item 5231 and struck out items 5233 “Bottling of distilled spirits in bond” and 5234 “Mingling and blending of distilled spirits”.

5231. Entry for deposit

All distilled spirits entered for deposit on the bonded premises of a distilled spirits plant under section 5211 shall, under such regulations as the Secretary shall prescribe, be deposited in the facilities on the bonded premises designated in the entry for deposit.

(As amended Pub. L. 96-39, title VIII, § 807(a)(32), July 26, 1979, 93 Stat. 286.)

AMENDMENTS

1979—Pub. L. 96-39 struck out in section catchline “in storage” following “for deposit” and subsec. (a) catchline and in text substituted “on the bonded premises of a distilled spirits plant” for “in storage” and “in the facilities” for “in storage facilities” and repealed subsec. (b), which related to a cross reference to section 5006(a)(2) for provisions requiring that all distilled spirits entered for deposit be withdrawn within 20 years from date of original entry for deposit.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

§ 5232. Imported distilled spirits

[See main edition for text of (a)]

(b) Withdrawals, etc.

Distilled spirits transferred pursuant to subsection (a)—

(1) may be redistilled or denatured only if of 185 degrees or more of proof, and

(2) may be withdrawn for any purpose authorized by this chapter, in the same manner as domestic distilled spirits.

[(3) Redesignated (2)]

(As amended Pub. L. 96-39, title VIII, § 807(a)(33), July 26, 1979, 93 Stat. 286.)

AMENDMENTS

1979—Subsec. (b). Pub. L. 96-39 redesignated former par. (2) and (3) as (1) and (2). Former par. (1), which prohibited distilled spirits transferred pursuant to subsection (a) from being bottled in bond under section 5233, was struck out.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

[§ 5233. Repealed. Pub. L. 96-39, title VIII, § 807(a)(34), July 26, 1979, 93 Stat. 286]

Section, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1366, and amended Pub. L. 94-455, title XIX, §§ 1905(a)(16), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1820, 1834, related to the bottling of distilled spirits in bond.

A prior section 5233, act Aug. 16, 1954, ch. 736, 68A Stat. 644, was a cross reference provision to establishment of bottling in bond department and was omitted from the Code upon the general revision of this chapter by Pub. L. 85-859.

Provisions similar to those comprising subsecs. (a) to (d) and (e)(1) of section 5233 added by Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1366, were contained in former section 5243(a) to (c), (g), act Aug. 16, 1954, ch. 736, 68A Stat. 645, as amended by Pub. L. 85-859, title II, § 206(c), Sept. 2, 1958, 72 Stat. 1431.

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.

[§ 5234. Repealed. Pub. L. 96-39, title VIII, § 807(a)(35), July 26, 1979, 93 Stat. 286]

Section, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1367, and amended Pub. L. 89-44, title VIII, § 805(f)(11), June 21, 1965, 79 Stat. 162; Pub. L. 94-455, title XIX, §§ 1905(a)(17), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1820, 1834; Pub. L. 95-176, § 5(a), Nov. 14, 1977, 91 Stat. 1366, related to the mingling and blending of distilled spirits.

Provisions similar to those comprising section 5234(a)(1)(A) and (b) to (d) of this title were contained in prior sections of I.R.C. 1954, prior to the general revision of this chapter by Pub. L. 85-859, as follows:

Subsecs.:	Prior sections
(a)(1)(A).....	5306.
(b).....	5217(a).
(c).....	5023.
(d).....	5251.

The prior sections, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 606, 641, 649, 657.

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.

§ 5235. Bottling of alcohol for industrial purposes

Alcohol for industrial purposes may be bottled, stamped, labeled, and cased on bonded premises of a distilled spirits plant prior to payment or determination of tax, under such regulations as the Secretary may prescribe. The provisions of section 5205(a)(1) shall not apply to alcohol bottled, stamped, and labeled as such under this section.

(As amended Pub. L. 96-39, title VIII, § 807(a)(36), July 26, 1979, 93 Stat. 286.)

AMENDMENTS

1979—Pub. L. 96-39 substituted “section 5205(a)(1) shall not apply” for “sections 5178(a)(4)(A), 5205(a)(1), and 5233 (relating to the bottling of distilled spirits in bond) shall not be applicable”.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

SUBPART D—DENATURATION

§ 5241. Authority to denature

Under such regulations as the Secretary shall prescribe, distilled spirits may be denatured on the bonded premises of a distilled spirits plant qualified for the processing of distilled spirits. Distilled spirits to be denatured under this section shall be of such kind and such degree of proof as the Secretary shall by regulations prescribe. Distilled spirits denatured under this section may be used on the bonded premises of a distilled spirits plant in the manufacture of any article.

(As amended Pub. L. 96-39, title VIII, § 807(a)(37), July 26, 1979, 93 Stat. 286.)

AMENDMENTS

1979—Pub. L. 96-39 substituted “a distilled spirits plant qualified for the processing of distilled spirits” for “any distilled spirits plant operated by a proprietor who is authorized to produce distilled spirits at such plant or on other bonded premises”, struck out provision that any other person operating bonded premises may, at the discretion of the Secretary and under such regulations as he may prescribe, be authorized to denature distilled spirits on such bonded premises, and added provision that distilled spirits denatured under this section may be used on the bonded premises of a distilled spirits plant in the manufacture of any article.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

[PART III—REPEALED]

[§§ 5251, 5252. Repealed. Pub. L. 96-39, title VIII, § 807(a)(38), July 26, 1979, 93 Stat. 286]

Section 5251, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1370, and amended Pub. L. 94-

455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, required proprietors of distilled spirits plants to give notice of their intention to rectify or compound any distilled spirits or wines.

A prior section 5251, act Aug. 16, 1954, ch. 736, 68A Stat. 649, was a cross reference provision to "blending of beverage brandies in internal revenue bonded warehouses", and was omitted from the Code upon the general revision of this chapter by Pub. L. 85-859.

Provisions similar to those comprising section 5251 of this title were contained in prior section 5282(a), act Aug. 16, 1954, ch. 736, 68A Stat. 651, prior to the general revision of this chapter by Pub. L. 85-859.

Section 5252, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1370, set out cross references to other sections with regard to the regulation of operations.

A prior section 5252, act Aug. 16, 1954, ch. 736, 68A Stat. 649, which related to "discontinuance of warehouse and transfer of merchandise", was omitted from the Code upon the general revision of this chapter by Pub. L. 85-859. See section 5236 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.

Subchapter D—Industrial Use of Distilled Spirits

§ 5273. Sale, use, and recovery of denatured distilled spirits

[See main edition for text of (a) to (d)]

(e) Cross references

[See main edition for text of (1) and (2)]

(3) For definition of "articles", see section 5002(a)(14).

(As amended Pub. L. 96-39, title VIII, § 807(a)(39), July 26, 1979, 93 Stat. 286.)

AMENDMENTS

1979—Subsec. (e)(3). Pub. L. 96-39 substituted "section 5002(a)(14)" for "section 5002(a)(11)".

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

Subchapter E—General Provisions Relating to Distilled Spirits

PART I—RETURN OF MATERIALS USED IN THE MANUFACTURE OR RECOVERY OF DISTILLED SPIRITS

§ 5291. General

[See main edition for text of (a)]

(b) Cross references

(1) For the definition of distilled spirits, see section 5002(a)(8).

(2) For the definition of articles, see section 5002(a)(14).

(3) For penalty for violation of subsection (a), see section 5605.

(As amended Pub. L. 96-39, title VIII, § 807(a)(40), July 26, 1979, 93 Stat. 286.)

AMENDMENTS

1979—Subsec. (b)(1). Pub. L. 96-39, § 807(a)(40)(A), substituted "section 5002(a)(8)" for "section 5002(a)(6)".

Subsec. (b)(2). Pub. L. 96-39, § 807(a)(40)(B), substituted "section 5002(a)(14)" for "section 5002(a)(11)".

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5605 of this title.

PART II—REGULATION OF TRAFFIC IN CONTAINERS OF DISTILLED SPIRITS

§ 5301. General

(a) Requirements

Whenever in his judgment such action is necessary to protect the revenue, the Secretary is authorized, by the regulations prescribed by him and permits issued thereunder if required by him—

(1) to regulate the kind, size, branding, marking, sale, resale, possession, use, and reuse of containers (of a capacity of not more than 5 wine gallons) designed or intended for use for the sale of distilled spirits (within the meaning of such term as it is used in section 5002(a)(8) for other than industrial use; and

[See main edition for text of (2)]

Any requirements imposed under this section shall be in addition to any other requirements imposed by, or pursuant to, law and shall apply as well to persons not liable for tax under the internal revenue laws as to persons so liable.

[See main edition for text of (b) to (d)]

(As amended Pub. L. 96-39, title VIII, § 807(a)(41), July 26, 1979, 93 Stat. 287.)

AMENDMENTS

1979—Subsec. (a)(1). Pub. L. 96-39 substituted "section 5002(a)(8)" for "section 5002(a)(6)".

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

Subchapter F—Bonded and Taxpaid Wine Premises

PART I—ESTABLISHMENT

§ 5352. Taxpaid wine bottling house

Any person bottling, packaging, or repackaging taxpaid wines shall, before commencing such operations, make application to the Secretary and receive permission to operate. Such premises shall be known as "tax-paid wine bottling houses."

(As amended Pub. L. 96-39, title VIII, § 807(a)(42), July 26, 1979, 93 Stat. 287.)

AMENDMENTS

1979—Pub. L. 96-39 struck out "at premises other than the bottling premises of a distilled spirits plant" following "taxpaid wines".

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

PART II—OPERATIONS

Sec.

[5364. Repealed.]

AMENDMENTS

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

§ 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 unmerchandise 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.

(As amended Pub. L. 96-39, title VIII, § 807(a)(43), July 26, 1979, 93 Stat. 287.)

AMENDMENTS

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

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

§ 5362. Removals of wine from bonded wine cellars

[See main edition for text of (a)]

(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.

[See main edition for text of (c) and (d)]

(As amended Pub. L. 96-39, title VIII, § 807(a)(44), July 26, 1979, 93 Stat. 287.)

AMENDMENTS

1979—Subsec. (b). Pub. L. 96-39 substituted references to bonded premises for references to bonded wine cellars and added 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 the term “bonded premises”.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

§ 5363. Taxpaid wine bottling house operations

In addition to the operations described in section 5352, the proprietor of a taxpaid wine bottling house may, subject to regulations issued by the Secretary, on such premises mix wine of the same kind and taxable grade to facilitate handling; preserve, filter, or clarify wine; and conduct operations not involving wine where such operations will not jeopardize the revenue or conflict with wine operations.

(As amended Pub. L. 96-39, title VIII, § 807(a)(45), July 26, 1979, 93 Stat. 287.)

AMENDMENTS

1979—Pub. L. 96-39 struck out provision that this subchapter apply to any wine received on the bottling premises of any distilled spirits plant for bottling, packaging, or repackaging, and to all operations relative thereto and provision that sections 5021, 5081, and 5082, not apply to the mixing or treatment of taxpaid wine under this section.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

[§ 5364. Repealed. Pub. L. 96-39, title VIII, § 807(a)(46), July 26, 1979, 93 Stat. 287]

Section, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1381, limited proprietors of bonded wine cellars or taxpaid wine bottling houses to the production, reception, storage, or use of only standard wine.

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.

§ 5365. Segregation of operations

The Secretary may require by regulations such segregation of operations within the premises, by partitions or otherwise, as may be necessary to prevent jeopardy to the revenue, to prevent confusion between untaxpaid wine operations and such other operations as are authorized in this subchapter, to prevent substitution with respect to the several methods of producing effervescent wines, and to prevent the commingling of standard wines with other than standard wines.

(As amended Pub. L. 96-39, title VIII, § 807(a)(47), July 26, 1979, 93 Stat. 287.)

AMENDMENTS

1979—Pub. L. 96-39 authorized segregation of operations to prevent the commingling of standard wines with other than standard wines.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

PART III—CELLAR TREATMENT AND CLASSIFICATION OF WINE**§ 5381. Natural wine**

Natural wine is the product of the juice or must of sound, ripe grapes or other sound, ripe fruit, made with such cellar treatment as may be authorized under section 5382 and containing not more than 21 percent by weight of total solids. Any wine conforming to such definition except for having become substandard by reason of its condition shall be deemed not to be natural wine, unless the condition is corrected.

(As amended Pub. L. 96-39, title VIII, § 807(a)(48), July 26, 1979, 93 Stat. 288.)

AMENDMENTS

1979—Pub. L. 96-39 struck out provisions authorizing removal for distillation of wine deemed not to be natural wine, destruction of such wine under government supervision, and transfer of such wine to premises in which other than natural wine may be stored or used.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

PART IV—GENERAL

Sec.

5391. Exemption from distilled spirits taxes.

AMENDMENTS

1979—Pub. L. 96-39, title VIII, § 807(b)(8), July 26, 1979, 93 Stat. 290, substituted "Exemption from distilled spirits taxes" for "Exemption from rectifying and spirits taxes" in item 5391.

§ 5391. Exemption from distilled spirits taxes

Notwithstanding any other provision of law, the tax imposed by section 5001 on distilled spirits shall not, except as provided in this subchapter, be assessed, levied, or collected from the proprietor of any bonded wine cellar with respect to his use of wine spirits in wine production, in such premises; except that, whenever wine or wine spirits are used in violation of this subchapter, the applicable tax imposed by section 5001 shall be collected unless the proprietor satisfactorily shows that such wine or wine spirits were not knowingly used in violation of law.

(As amended Pub. L. 96-39, title VIII, § 807(a)(49), July 26, 1979, 93 Stat. 288.)

AMENDMENTS

1979—Pub. L. 96-39 substituted "Distilled" for "rectifying and" in catchline and struck out provisions relating to exemption from taxes imposed on rectified spirits and wines and the status of any proprietor of a bonded wine cellar as a rectifier of such spirits in text.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5005 of this title.

Subchapter G—Breweries**SUBCHAPTER REFERRED TO IN OTHER SECTIONS**

This subchapter is referred to in sections 5054, 5674 of this title.

Subchapter H—Miscellaneous Plants and Warehouses

Part

[III. Repealed.]

AMENDMENTS

1979—Pub. L. 96-39, title VIII, § 807(b)(9), July 26, 1979, 93 Stat. 291, struck out the item relating to Part III "Manufacturing bonded warehouses" in the table of Parts comprising Subchapter H.

PART II—VOLATILE FRUIT-FLAVOR CONCENTRATE PLANTS**§ 5511. Establishment and operation****SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 5001, 5003, 5382 of this title.

[PART III—REPEALED]**AMENDMENTS**

1979—Pub. L. 96-39, title VIII, § 807(a)(50), July 26, 1979, 93 Stat. 288, struck out the part heading "Part III—Manufacturing Bonded Warehouses" and the analysis of sections (5521 to 5523) formerly comprising this part.

[§§ 5521 to 5523. Repealed. Pub. L. 96-39, title VIII, § 807(a)(50), July 26, 1979, 93 Stat. 288]

Section 5521, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1392, and amended Pub. L. 94-

455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, related to the establishment and operation of manufacturing bonded warehouses.

Section 5522, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1393, and amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, related to the withdrawal of distilled spirits to manufacturing bonded warehouses.

Section 5523, added Pub. L. 85-859, title II, § 201, Sept. 2, 1958, 72 Stat. 1394, and amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, made special provisions for distilled spirits and wines rectified in manufacturing bonded warehouses.

EFFECTIVE DATE OF REPEAL

Repeal of sections 5521 to 5523 of this title 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.

Suhchapter I—Miscellaneous General Provisions

§ 5551. General provisions relating to bonds

(a) Approval as condition to commencing business

No individual, firm, partnership, corporation, or association, intending to commence or to continue the business of a distiller, warehouseman, processor, brewer, or winemaker, shall commence or continue the business of a distiller, warehouseman, processor, brewer, or winemaker until all bonds in respect of such a business, required by any provision of law, have been approved by the Secretary of the Treasury or the officer designated by him.

[See main edition for text of (b) and (c)]

(As amended Pub. L. 96-39, title VIII, § 807(a)(51), July 26, 1979, 93 Stat. 288.)

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-39 substituted “warehouseman, processor” for “bonded warehouseman, rectifier” in two instances.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

Suhchapter J—Penalties, Seizures, and Forfeitures Relating to Liquors

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 5045, 5148 of this title.

PART I—PENALTY, SEIZURE, AND FORFEITURE PROVISIONS APPLICABLE TO DISTILLING, RECTIFYING, AND DISTILLED AND RECTIFIED PRODUCTS

§ 5601. Criminal penalties

(a) Offenses

Any person who—

[See main edition for text of (1)]

(2) Failure to file application

engages in the business of a distiller or processor without having filed application for and received notice of registration, as required by section 5171(c); or

(3) False or fraudulent application

engages, or intends to engage, in the business of distiller, warehouseman, or processor of distilled spirits, and files a false or fraudulent application under section 5171; or

(4) Failure or refusal of distiller, warehouseman, or processor to give bond

carries on the business of a distiller, warehouseman, or processor without having given bond as required by law; or

(5) False, forged, or fraudulent bond

engages, or intends to engage, in the business of distiller, warehouseman, or processor of distilled spirits, and gives any false, forged, or fraudulent bond, under subchapter B; or

[See main edition for text of (6) to (9)]

(10) Unlawful processing

engages in or carries on the business of a processor—

(A) with intent to defraud the United States of any tax on the distilled spirits processed by him; or

(B) with intent to aid, abet, or assist any person or persons in defrauding the United States of the tax on any distilled spirits; or

(11) Unlawful purchase, receipt, or processing of distilled spirits

purchases, receives, or processes any distilled spirits, knowing or having reasonable grounds to believe that any tax due on such spirits has not been paid or determined as required by law; or

[See main edition for text of (12) to (14)]

shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both, for each such offense.

(h) Presumptions

Whenever on trial for violation of subsection (a)(4) the defendant is shown to have been at the site or place where, and at the time when, the business of a distiller or processor was so engaged in or carried on, such presence of the defendant shall be deemed sufficient evidence to authorize conviction, unless the defendant explains such presence to the satisfaction of the jury (or of the court when tried without jury).

(As amended Pub. L. 96-39, title VIII, § 807(a)(52), July 26, 1979, 93 Stat. 288.)

AMENDMENTS

1979—Subsec. (a)(2). Pub. L. 96-39, § 807(a)(52)(A), struck out “distiller or rectifier” from par. (2) heading and substituted “processor” for “rectifier” and “section 5171(c)” for “section 5171(a)” in text.

Subsec. (a)(3). Pub. L. 96-39, § 807(a)(52)(B), substituted “warehouseman, or processor” for “bonded warehouseman, rectifier, or bottler”.

Subsec. (a)(4). Pub. L. 96-39, § 807(a)(52)(C), substituted “warehouseman, or processor” for “or rectifier” in par. (4) heading and in text.

Subsec. (a)(5). Pub. L. 96-39, § 807(a)(52)(B), substituted “warehouseman, or processor” for “bonded warehouseman, rectifier, or bottler”.

Subsec. (a)(10). Pub. L. 96-39, § 807(a)(52)(D), substituted “processing” for “rectifying or bottling” in par.

(10) heading, "processor" for "rectifier, or a bottler of distilled spirits" in text preceding subpar. (A), and "processed" for "rectified or bottled" in subpar. (A).

Subsec. (a)(11). Pub. L. 96-39, § 807(a)(52)(E), substituted "or processing" for "rectification, or bottling" in par. (11) heading and "or processes" for "rectifies, or bottles" in text.

Subsec. (b). Pub. L. 96-39, § 807(a)(52)(F), substituted "processor" for "rectifier".

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

§ 5604. Penalties relating to stamps, marks, brands, and containers

(a) General

Any person who shall—

(1) transport, possess, buy, sell, or transfer any distilled spirits, required to be stamped under the provisions of section 5205(a)(1), unless the immediate container thereof has affixed thereto a stamp as required by such section; or

(2) with intent to defraud the United States, empty a container stamped under the provisions of section 5205(a)(1) or section 5235 without destroying the stamp thereon as required by section 5205(a)(2) or regulations prescribed pursuant thereto; or

(3) empty, or cause to be emptied, any distilled spirits from any immediate container (other than a container stamped under section 5205(a) or section 5235) bearing any stamp, mark, or brand required by law without effacing and obliterating such stamp, mark, or brand as required by section 5205(f); or

[See main edition for text of (4) and (5)]

(6) with intent to defraud the United States, use, reuse, sell, or have in his possession any stamp required to be destroyed by section 5205(a)(2) or regulations prescribed pursuant thereto; or

[See main edition for text of (7) to (12)]

(13) affix any stamp issued pursuant to section 5205(a) to any container containing distilled spirits on which any tax due is unpaid or undetermined; or

[See main edition for text of (14) to (19)]

shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both, for each such offense.

[See main edition for text of (b)]

(As amended Pub. L. 96-39, title VIII, § 807(a)(53), July 26, 1979, 93 Stat. 289.)

AMENDMENTS

1979—Subsec. (a)(1). Pub. L. 96-39, § 807(a)(53)(A), substituted "section 5205(a)(1)" for "section 5205(a)(2)".

Subsec. (a)(2). Pub. L. 96-39, § 807(a)(53)(B), substituted "section 5205(a)(1)" for "section 5205(a)(1) or (2)" and "section 5205(a)(2)" for "section 5205(a)(3)".

Subsec. (a)(3). Pub. L. 96-39, § 807(a)(53)(C), substituted "section 5205(f)" for "section 5205(g)".

Subsec. (a)(6). Pub. L. 96-39, § 807(a)(53)(D), substituted "section 5205(a)(2)" for "section 5205(a)(3)".

Subsec. (a)(13). Pub. L. 96-39, § 807(a)(53)(E), substituted "section 5205(a)" for "section 5205(a)(2) and (3)".

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

§ 5610. Disposal of forfeited equipment and material for distilling

All boilers, stills, or other vessels, tools and implements, used in distilling or processing, and forfeited under any of the provisions of this chapter, and all condemned material, together with any engine or other machinery connected therewith, and all empty barrels, and all grain or other material suitable for fermentation or distillation, shall be sold at public auction or otherwise disposed of as the court in which forfeiture was recovered shall in its discretion direct.

(As amended Pub. L. 96-39, title VIII, § 807(a)(54), July 26, 1979, 93 Stat. 289.)

AMENDMENTS

1979—Pub. L. 96-39 substituted "or processing" for "or rectifying".

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

§ 5612. Forfeiture of taxpaid distilled spirits remaining on bonded premises

[See main edition for text of (a)]

(b) Exceptions

Subsection (a) shall not apply in the case of—

(1) distilled spirits in the process of prompt removal from bonded premises on payment or determination of the tax; or

(2) distilled spirits returned to bonded premises in accordance with the provisions of section 5215.

(As amended Pub. L. 96-39, title VIII, § 807(a)(55), July 26, 1979, 93 Stat. 289.)

SUSPENSION OF SUBSECTION (a) DURING 1980

Pub. L. 96-39, title VIII, § 808(c)(1), July 26, 1979, 93 Stat. 291, set out as a note under section 5061 of this title, provided that subsec. (a) of this section was not to apply during 1980.

AMENDMENTS

1979—Subsec. (b). Pub. L. 96-39 redesignated former subpars. (2) and (3) as (1) and (2), respectively, and struck out former subpars. (1) and (4) which excepted distilled spirits which were bottled in bond under section 5233 of this title and which were returned to bonded premises for rebottling, relabeling, or restamping in accordance with subsec. (d) of section 5233, and excepted such spirits, held on bonded premises, on which the tax had become payable by operation of law, but on which the tax had not been paid.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

§ 5615. Property subject to forfeiture

The following property shall be forfeited to the United States:

[See main edition for text of (1) to (4)]

(5) False or omitted entries in records, returns, and reports

Whenever any person required by section 5207 to keep or file any record, return, report, summary, transcript, or other document, shall, with intent to defraud the United States—

[See main edition for text of (A) to (F)]

all interest of such person in the distilled spirits plant where such acts or omissions occur, and in the equipment thereon, and in the lot or tract of land on which such distilled spirits plant stands, and in all personal property on the premises of the distilled spirits plant where such acts or omissions occur, used in the business there carried on; and

[See main edition for text of (6) and (7)]

(As amended Pub. L. 96-39, title VIII, § 807(a)(56), July 26, 1979, 93 Stat. 289.)

AMENDMENTS

1979—Par. (5). Pub. L. 96-39 substituted “distilled spirits plant” for “distillery, bonded warehouse, or rectifying or bottling establishment” in three instances.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

PART II—PENALTY AND FORFEITURE PROVISIONS APPLICABLE TO WINE AND WINE PRODUCTION

§ 5663. Cross reference

For penalties of common application pertaining to liquors, including wines, see part IV.

(As amended Pub. L. 96-39, title VIII, § 807(a)(57), July 26, 1979, 93 Stat. 289.)

AMENDMENTS

1979—Pub. L. 96-39 struck out reference to penalties for rectified products under part I of this subchapter.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

PART III—PENALTY, SEIZURE, AND FORFEITURE PROVISIONS APPLICABLE TO BEER AND BREWING

Sec.

5674. Penalty for unlawful production or removal of beer.

AMENDMENTS

1978—Pub. L. 95-458, § 2(b)(5)(B), Oct. 14, 1978, 92 Stat. 1257, substituted “production or removal” for “removal” in item 5674.

§ 5674. Penalty for unlawful production or removal of beer

(a) Unlawful production

Any person who brews beer or produces beer shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both, unless such beer is brewed or produced in a brewery qualified under subchapter G or such production is exempt from tax under section 5053(e) (relating to beer for personal or family use).

(b) Unlawful removal

Any brewer or other person who removes or in any way aids in the removal from any brewery of beer without complying with the provisions of this chapter or regulations issued pursuant thereto shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both.

(As amended Pub. L. 95-458, § 2(b)(5)(A), Oct. 14, 1978, 92 Stat. 1256.)

AMENDMENTS

1978—Pub. L. 95-458 substituted in section catchline “production or removal” for “removal”, redesignated existing provision as subsec. (b), and added subsec. (a).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-458 effective on the first day of the first calendar month beginning more than 90 days after Oct. 14, 1978, see section 2(c) of Pub. L. 95-458 set out as an Effective Date of 1978 Amendment note under section 5042 of this title.

PART IV—PENALTY, SEIZURE, AND FORFEITURE PROVISIONS COMMON TO LIQUORS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 5663 of this title.

§ 5681. Penalty relating to signs

(a) Failure to post required sign

Every person engaged in distilled spirits operations, and every wholesale dealer in liquors, who fails to post the sign required by section 5115(a) or section 5180(a) shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both.

(b) Posting or displaying false sign

Every person, other than a distiller, warehouseman, or processor of distilled spirits who has received notice of registration of his plant under the provisions of section 5171(c), or other than a wholesale dealer in liquors who has paid the special tax (or who is exempt from payment of such special tax by reason of the provisions of section 5113(a)), who puts up or keeps up any sign indicating that he may lawfully carry on the business of a distiller, warehouseman, or processor of distilled spirits, or wholesale dealer in liquors, as the case may be, shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both.

(c) Premises where no sign is placed or kept

Every person who works in any distilled spirits plant or wholesale liquor establishment, on

which no sign required by section 5115(a) or section 5180(a) is placed or kept, and every person who knowingly receives at, or carries or conveys any distilled spirits to or from any such distilled spirits plant or wholesale liquor establishment, or who knowingly carries or delivers any grain, molasses, or other raw material to any distilled spirits plant on which such a sign is not placed and kept, shall forfeit all vehicles, aircraft, or vessels used in carrying or conveying such property and shall be fined not more than \$1,000, or imprisoned not more than 1 year, or both.

(d) Presumption

Whenever on trial for violation of subsection (c) by working in a distilled spirits plant on which no sign required by section 5180(a) is placed or kept, the defendant is shown to have been present at such premises, such presence of the defendant shall be deemed sufficient evidence to authorize conviction, unless the defendant explains such presence to the satisfaction of the jury (or of the court when tried without jury).

(As amended Pub. L. 96-39, title VIII, § 807(a)(58), July 26, 1979, 93 Stat. 289.)

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-39, § 807(a)(58)(A), substituted “distilled spirits operations” for “distilling, warehousing of distilled spirits, rectifying, or bottling of distilled spirits”.

Subsec. (b). Pub. L. 96-39, § 807(a)(58)(B), substituted “other than a distiller, warehouseman, or processor of distilled spirits” for “other than a distiller, warehouseman of distilled spirits, rectifier, or bottler of distilled spirits”, “section 5171(c)” for “section 5171(a)”, and “business of a distiller, warehouseman, or processor of distilled spirits” for “business of a distiller, bonded warehouseman, rectifier, bottler of distilled spirits”.

Subsec. (c). Pub. L. 96-39, § 807(a)(58)(C), substituted “in any distilled spirits plant” for “in any distillery, or in any rectifying, distilled spirits bottling”, “such distilled spirits plant” for “such distillery, or to or from any such rectifying, distilled spirits bottling”, and “to any distilled spirits plant” for “to any distillery”.

Subsec. (d). Pub. L. 96-39, § 807(a)(58)(D), substituted “distilled spirits plant” for “distillery or rectifying establishment”.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

§ 5682. Penalty for breaking locks or gaining access

Every person, who destroys, breaks, injures, or tampers with any lock or seal which may be placed on any room, building, tank, vessel, or apparatus, by any authorized internal revenue officer or any approved lock or seal placed thereon by a distilled spirits plant proprietor, or who opens said lock, seal, room, building, tank, vessel, or apparatus, or in any manner gains access to the contents therein, in the absence of the proper officer, or otherwise than as authorized by law, shall be fined not more than \$5,000, or imprisoned not more than 3 years, or both.

(As amended Pub. L. 96-39, title VIII, § 807(a)(59), July 26, 1979, 93 Stat. 290.)

AMENDMENTS

1979—Pub. L. 96-39 expanded penalty provisions to include persons tampering with locks or seals affixed by distilled spirits plant proprietors.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

PART V—PENALTIES APPLICABLE TO OCCUPATIONAL TAXES

§ 5691. Penalties for nonpayment of special taxes relating to liquors

(a) General

Any person who shall carry on the business of a brewer, wholesale dealer in liquors, retail dealer in liquors, wholesale dealer in beer, retail dealer in beer, limited retail dealer, or manufacturer of stills, and willfully fail to pay the special tax as required by law, shall be fined not more than \$5,000, or imprisoned not more than 2 years, or both, for each such offense.

[See main edition for text of (b)]

(As amended Pub. L. 96-39, title VIII, § 807(a)(60), July 26, 1979, 93 Stat. 290.)

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-39 eliminated persons employed as rectifiers from the penalties imposed by this section.

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 an Effective Date of 1979 Amendment note under section 5001 of this title.

CHAPTER 52—CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 6103, 6207, 6423, 7328 of this title; title 18 section 2341.

Subchapter A—Definitions; Rate and Payment of Tax; Exemption From Tax; and Refund and Drawback of Tax

§ 5704. Exemption from tax

REFERENCES IN TEXT

The Tariff Schedules of the United States are no longer set out in the Code. See Publication of Tariff Schedules note set out under section 1202 of Title 19, Customs Duties.

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

Subchapter B—General Provisions and Exemptions

PART I—GENERAL PROVISIONS

§ 5845. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5685, 5801, 5811 of this title; title 18 sections 844, 922, 924, 925, 2344; title 40 section 304m.