

AMENDMENTS

1989—Subsec. (a). Pub. L. 101-239, § 7816(o)(2), substituted "Except as otherwise provided in this section," for "Except as provided in subsection (c)."

Subsec. (c). Pub. L. 101-239, § 7816(o)(1)(A), redesignated subsec. (c), relating to exemption for certain educational institutions, as (d).

Subsec. (d). Pub. L. 101-239, § 7816(o)(1)(A), redesignated subsec. (c), relating to exemption for certain educational institutions, as (d) and substituted "Exemption" for "Exemption" in heading.

Subsec. (d)(1). Pub. L. 101-239, § 7816(o)(1)(B), substituted "section 5271" for "section 5271(a)(2)".

Subsec. (d)(2). Pub. L. 101-239, § 7816(o)(1)(C), substituted "distilled spirits free of tax" for "specially denatured distilled spirits".

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 7817 of Pub. L. 101-239, set out as a note under section 1 of this title.

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

PART IV—PENALTY, SEIZURE, AND FORFEITURE PROVISIONS COMMON TO LIQUORS

§ 5684. Penalties relating to the payment and collection of liquor taxes

[See main edition for text of (a)]

(b) Applicability of section 6665

The penalties imposed by subsection (a) shall be assessed, collected, and paid in the same manner as taxes, as provided in section 6665(a).

[See main edition for text of (c)]

(As amended Pub. L. 101-239, title VII, § 7721(c)(3), Dec. 19, 1989, 103 Stat. 2399.)

AMENDMENTS

1989—Subsec. (b). Pub. L. 101-239 substituted "6665" for "6662" in heading and "6665(a)" for "6662(a)" in text.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7721(d) of Pub. L. 101-239, set out as a note under section 461 of this title.

CHAPTER 52—CIGARS, CIGARETTES, SMOKELESS TOBACCO, PIPE TOBACCO, AND CIGARETTE PAPERS AND TUBES

Subchapter A—Definitions; Rate and Payment of Tax; Exemption From Tax; and Refund and Drawback of Tax

§ 5701. Rate of tax

(a) Cigars

On cigars, manufactured in or imported into the United States, there shall be imposed the following taxes:

(1) Small cigars

On cigars, weighing not more than 3 pounds per thousand, \$1.125 cents per thousand

(93.75 cents per thousand on cigars removed during 1991 or 1992);

(2) Large cigars

On cigars weighing more than 3 pounds per thousand, a tax equal to—

(A) 10.625 percent of the price for which sold but not more than \$25 per thousand on cigars removed during 1991 or 1992, and

(B) 12.75 percent of the price for which sold but not more than \$30 per thousand on cigars removed after 1992.

Cigars not exempt from tax under this chapter which are removed but not intended for sale shall be taxed at the same rate as similar cigars removed for sale.

(b) Cigarettes

On cigarettes, manufactured in or imported into the United States, there shall be imposed the following taxes:

(1) Small cigarettes

On cigarettes, weighing not more than 3 pounds per thousand, \$12 per thousand (\$10 per thousand on cigarettes removed during 1991 or 1992);

(2) Large cigarettes

On cigarettes, weighing more than 3 pounds per thousand, \$25.20 per thousand (\$21 per thousand on cigarettes removed during 1991 or 1992); except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(c) Cigarette papers

On each book or set of cigarette papers containing more than 25 papers, manufactured in or imported into the United States, there shall be imposed a tax of 0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992) for each 50 papers or fractional part thereof; except that, if cigarette papers measure more than 6½ inches in length, they shall be taxable at the rate prescribed, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette paper.

(d) Cigarette tubes

On cigarette tubes, manufactured in or imported into the United States, there shall be imposed a tax of 1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992) for each 50 tubes or fractional part thereof, except that if cigarette tubes measure more than 6½ inches in length, they shall be taxable at the rate prescribed, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette tube.

(e) Smokeless tobacco

On smokeless tobacco, manufactured in or imported into the United States, there shall be imposed the following taxes:

(1) Snuff

On snuff, 36 cents (30 cents on snuff removed during 1991 or 1992) per pound and a

proportionate tax at the like rate on all fractional parts of a pound.

(2) Chewing tobacco

On chewing tobacco, 12 cents (10 cents on chewing tobacco removed during 1991 or 1992) per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(f) Pipe tobacco

On pipe tobacco, manufactured in or imported into the United States, there shall be imposed a tax of 67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992) per pound (and a proportionate tax at the like rate on all fractional parts of a pound).

[See main edition for text of (g)]

(As amended Nov. 5, 1990, Pub. L. 101-508, title XI, § 11202(a)-(f), 104 Stat. 1388-419.)

AMENDMENTS

1990—Subsec. (a)(1). Pub. L. 101-508, § 11202(a)(1), substituted "\$1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 or 1992)" for "75 cents per thousand".

Subsec. (a)(2). Pub. L. 101-508, § 11202(a)(2), substituted "equal to—" and subpars. (A) and (B) for "equal to 8½ percent of the wholesale price, but not more than \$20 per thousand."

Subsec. (b)(1). Pub. L. 101-508, § 11202(b)(1), substituted "\$12 per thousand (\$10 per thousand on cigarettes removed during 1991 or 1992)" for "\$8 per thousand".

Subsec. (b)(2). Pub. L. 101-508, § 11202(b)(2), substituted "\$25.20 per thousand (\$21 per thousand on cigarettes removed during 1991 or 1992)" for "\$16.80 per thousand".

Subsec. (c). Pub. L. 101-508, § 11202(c), substituted "0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)" for "½ cent".

Subsec. (d). Pub. L. 101-508, § 11202(d), substituted "1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)" for "1 cent".

Subsec. (e)(1). Pub. L. 101-508, § 11202(e)(1), substituted "36 cents (30 cents on snuff removed during 1991 or 1992)" for "24 cents".

Subsec. (e)(2). Pub. L. 101-508, § 11202(e)(2), substituted "12 cents (10 cents on chewing tobacco removed during 1991 or 1992)" for "8 cents".

Subsec. (f). Pub. L. 101-508, § 11202(f), substituted "67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)" for "45 cents".

EFFECTIVE DATE OF 1990 AMENDMENT

Section 11202(h) of Pub. L. 101-508 provided that: "The amendments made by this section [amending this section and section 5702 of this title] shall apply with respect to articles removed after December 31, 1990."

FLOOR STOCKS

Section 11202(i) of Pub. L. 101-508 provided that:

"(1) IMPOSITION OF TAX.—On cigarettes manufactured in or imported into the United States which are removed before any tax-increase date and held on such date for sale by any person, there shall be imposed the following taxes:

"(A) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, \$2 per thousand.

"(B) LARGE CIGARETTES.—On cigarettes weighing more than 3 pounds per thousand, \$4.20 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thou-

sand, counting each 2¼ inches, or fraction thereof, of the length of each as one cigarette.

"(2) EXCEPTION FOR CERTAIN AMOUNTS OF CIGARETTES.—

"(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on cigarettes held on any tax-increase date by any person if—

"(i) the aggregate number of cigarettes held by such person on such date does not exceed 30,000, and

"(ii) such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this subparagraph.

For purposes of this subparagraph, in the case of cigarettes measuring more than 6½ inches in length, each 2¼ inches (or fraction thereof) of the length of each shall be counted as one cigarette.

"(B) AUTHORITY TO EXEMPT CIGARETTES HELD IN VENDING MACHINES.—To the extent provided in regulations prescribed by the Secretary, no tax shall be imposed by paragraph (1) on cigarettes held for retail sale on any tax-increase date by any person in any vending machine. If the Secretary provides such a benefit with respect to any person, the Secretary may reduce the 30,000 amount in subparagraph (A) and the \$60 amount in paragraph (3) with respect to such person.

"(3) CREDIT AGAINST TAX.—Each person shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to \$60. Such credit shall not exceed the amount of taxes imposed by paragraph (1) for which such person is liable.

"(4) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

"(A) LIABILITY FOR TAX.—A person holding cigarettes on any tax-increase date to which any tax imposed by paragraph (1) applies shall be liable for such tax.

"(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

"(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the 1st June 30 following the tax-increase date.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) TAX-INCREASE DATE.—The term 'tax-increase date' means January 1, 1991, and January 1, 1993.

"(B) OTHER DEFINITIONS.—Terms used in this subsection which are also used in section 5702 of the Internal Revenue Code of 1986 shall have the respective meanings such terms have in such section.

"(C) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury or his delegate.

"(6) CONTROLLED GROUPS.—Rules similar to the rules of section 11201(e)(6) [Pub. L. 101-508, set out in a note under section 5001 of this title] shall apply for purposes of this subsection.

"(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5702, 5703 of this title.

§ 5702. Definitions

When used in this chapter—

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

(m) Determination of price on cigars

In determining price for purposes of section 5701(a)(2)—

(1) there shall be included any charge incident to placing the article in condition ready for use,

(2) there shall be excluded—

(A) the amount of the tax imposed by this chapter or section 7652, and

(B) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee, and

(3) rules similar to the rules of section 4216(b) shall apply.

[See main edition for text of (n) and (o)]

(As amended Nov. 5, 1990, Pub. L. 101-508, title XI, § 11202(g), 104 Stat. 1388-419.)

AMENDMENTS

1990—Subsec. (m). Pub. L. 101-508 substituted heading for one which read: "Wholesale price" and amended text generally. Prior to amendment, text read as follows: "'Wholesale price' means the manufacturer's, or importer's, suggested delivered price at which the cigars are to be sold to retailers, inclusive of the tax imposed by this chapter or section 7652, but exclusive of any State or local taxes imposed on cigars as a commodity, and before any trade, cash, or other discounts, or any promotion, advertising, display, or similar allowances. Where the manufacturer's or importer's suggested delivered price to retailers is not adequately supported by bona fide arm's length sales, or where the manufacturer or importer has no suggested delivered price to retailers, the wholesale price shall be the price for which cigars of comparable retail price are sold to retailers in the ordinary course of trade as determined by the Secretary."

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 applicable with respect to articles removed after Dec. 31, 1990, see section 11202(h) of Pub. L. 101-508, set out as a note under section 5701 of this title.

§ 5703. Liability for tax and method of payment

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

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

§ 5704. Exemption from tax

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

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

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

[See main edition for text of (d)]

(As amended Dec. 19, 1989, Pub. L. 101-239, title VII, § 7508(a), 103 Stat. 2370.)

AMENDMENTS

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

EFFECTIVE DATE OF 1989 AMENDMENT

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

Subchapter G—Penalties and Forfeitures

§ 5761. Civil penalties

(a) Omitting things required or doing things forbidden

Whoever willfully omits, neglects, or refuses to comply with any duty imposed upon him by this chapter, or to do, or cause to be done, any of the things required by this chapter, or does anything prohibited by this chapter, shall in addition to any other penalty provided in this title, be liable to a penalty of \$1,000, to be recovered, with costs of suit, in a civil action, except where a penalty under subsection (b) or under section 6651 or 6653 or part II of subchapter A of chapter 68 may be collected from such person by assessment.

[See main edition for text of (b)]

(c) Applicability of section 6665

The penalty imposed by subsection (b) shall be assessed, collected, and paid in the same manner as taxes, as provided in section 6665(a).

[See main edition for text of (d)]

(As amended Dec. 19, 1989, Pub. L. 101-239, title VII, § 7721(c)(4), (5), 103 Stat. 2399.)

AMENDMENTS

1989—Subsec. (a). Pub. L. 101-239, § 7721(c)(4), inserted "or part II of subchapter A of chapter 68" after "or 6653".

Subsec. (c). Pub. L. 101-239, § 7721(c)(5), substituted "6665" for "6662" in heading and "6665(a)" for "6662(a)" in text.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7721(d) of Pub. L. 101-239, set out as a note under section 461 of this title.

Subtitle F—Procedure and Administration

SUBTITLE REFERRED TO IN OTHER SECTIONS

This subtitle is referred to in sections 408, 460, 468A, 468B, 643, 810, 852, 860E, 860F, 874, 882, 911, 2661, 3121, 3402, 3405, 3406, 4405, 4414, 4462, 4484, 4980, 4999, 5067, 5148, 5560, 5881, 7851 of this title; title 42 sections 401, 408, 1307, 1395i; title 48 section 1421i.